

Independent Committee in relation to the fire at Wang Fuk Court in Tai Po

Evidential Hearing

**The Honourable Mr Justice David Lok
The Honourable Mr Chan Kin-por, GBS, JP
Dr Rex Auyeung Pak-kuen, GBS, JP**

**On:
Day 21
Thursday, 30 April 2026**

**Mr Victor Dawes SC, Mr Jason Yu, Mr SW Lee, Mr Jonathan Fung and
Mr John Cheung appeared on behalf of the Independent Committee**

**Mr Charlie Liu and Mr Calvin Cheuk appeared on behalf of the
Government**

**Mr Mike Lui SC and Mr Ross Yuen appeared on behalf of the Urban
Renewal Authority**

Representatives of Department of Justice

Representatives of Competition Commission

**Mr Jeffrey Tam and Mr Colman Li appeared on behalf of Residents of
Wang Fuk Court**

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<p>1 Thursday, 30 April 2026</p> <p>2 (10.00 am)</p> <p>3 THE HON MR JUSTICE DAVID LOK: Mr Dawes.</p> <p>4 MR VICTOR DAWES: Chairman, members, three witnesses from</p> <p>5 the Urban Renewal Authority will give testimony. The</p> <p>6 first one is Mr Chan Yat Ho, Matthew.</p> <p>7 Mr Chan, good morning. Please rise and read out the</p> <p>8 declaration in front of you.</p> <p>9 (10.00 am)</p> <p>10 MR CHAN YAT HO, MATTHEW (affirmed)</p> <p>11 Examination by MR VICTOR DAWES</p> <p>12 MR VICTOR DAWES: Please be seated.</p> <p>13 Mr Chan, you are from the URA. You are from the</p> <p>14 building rehabilitation division and you're a case</p> <p>15 manager?</p> <p>16 MR CHAN YAT HO: Correct.</p> <p>17 MR VICTOR DAWES: For the Independent Committee you</p> <p>18 submitted two witness statements. Let's look at WS18;</p> <p>19 we can see the Chinese version of your witness</p> <p>20 statement. We will stick to the Chinese statement for</p> <p>21 the hearing.</p> <p>22 I believe you can confirm that the content therein</p> <p>23 is correct?</p> <p>24 MR CHAN YAT HO: I confirm.</p> <p>25 MR VICTOR DAWES: We want to first find out about your role</p>	<p>1 primary goal is to prevent corrupt behaviour such as</p> <p>2 bid-rigging?</p> <p>3 MR CHAN YAT HO: We try to minimise the risk of bid-rigging.</p> <p>4 MR VICTOR DAWES: Got it. Based on your account, given the</p> <p>5 resources and given the system before the fire, there</p> <p>6 were constraints before the fire, and I will give you an</p> <p>7 opportunity to explain that in greater detail.</p> <p>8 So let's take things chronologically.</p> <p>9 From 2018 to 2019, Wang Fuk Court hired a registered</p> <p>10 inspector, that's the RI, and then Will Power was</p> <p>11 appointed, we all know that. You weren't in the post</p> <p>12 yet. Another colleague followed up.</p> <p>13 MR CHAN YAT HO: That's correct.</p> <p>14 MR VICTOR DAWES: Who was that?</p> <p>15 MR CHAN YAT HO: It was Mr Yam Lap Yin, Brian.</p> <p>16 MR VICTOR DAWES: Let's look at paragraphs 16 to 20 of your</p> <p>17 statement. Smart Tender was limited in its scope.</p> <p>18 Smart Tender was there to help owners' corporations to</p> <p>19 choose contractors. The engagement of an RI was out of</p> <p>20 scope. That was the case back then. For Wang Fuk Court</p> <p>21 OC, on 16 June 2018 there was a service agreement.</p> <p>22 That's in E1, page 1214 in that bundle.</p> <p>23 Page 1201, the page before that. So that's the</p> <p>24 cover page. Next page, these were the parties to the</p> <p>25 agreement. And then we come to the content of the</p>
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<p>1 in the Wang Fuk Court project. In June 2019 you joined</p> <p>2 the URA based on your statement.</p> <p>3 MR CHAN YAT HO: Yes.</p> <p>4 MR VICTOR DAWES: And in the same year you were assigned to</p> <p>5 follow up on the tendering for the renovation and</p> <p>6 maintenance project at Wang Fuk Court?</p> <p>7 MR CHAN YAT HO: That's correct.</p> <p>8 MR VICTOR DAWES: Before joining the URA, what relevant work</p> <p>9 experience did you have?</p> <p>10 MR CHAN YAT HO: I was in property management and</p> <p>11 construction. Before joining the URA, I worked at works</p> <p>12 consultant firms. I also worked for NGOs and social</p> <p>13 welfare organisations where I also worked in the</p> <p>14 capacity covering works.</p> <p>15 MR VICTOR DAWES: From June 2019 up to the fire, you worked</p> <p>16 on the renovation and maintenance at Wang Fuk Court; is</p> <p>17 that correct?</p> <p>18 MR CHAN YAT HO: That's right.</p> <p>19 MR VICTOR DAWES: Now I want to discuss the role of the URA</p> <p>20 in Wang Fuk Court's maintenance and renovation project.</p> <p>21 So what can the URA do and what has the URA done and</p> <p>22 what could the URA not do or what fell outside the</p> <p>23 purview of the URA, we will get to those points in</p> <p>24 a bit.</p> <p>25 Do you agree that in building maintenance your</p>	<p>1 agreement.</p> <p>2 Let's look at page 1214, schedule 1. Here are the</p> <p>3 services provided by the URA. Paragraph (A).</p> <p>4 The URA provides the OC with the DIY tool-kit, and</p> <p>5 then item (C), during tendering there will be an</p> <p>6 electronic tendering platform.</p> <p>7 Let's go down. That's where we come to the</p> <p>8 contractor. At that time, the scope of services was</p> <p>9 limited to the selection of the contractor. The RI fell</p> <p>10 into a different area?</p> <p>11 MR CHAN YAT HO: That's correct.</p> <p>12 MR VICTOR DAWES: Your witness statement in paragraphs 19 to</p> <p>13 21 also has this to say, so this was about the</p> <p>14 appointment of the registered inspector. You made it</p> <p>15 clear that the URA had no involvement in the tendering</p> <p>16 for the RI.</p> <p>17 Paragraph 20 says that the URA had no knowledge of</p> <p>18 this. So that's your account.</p> <p>19 So we covered the services. In paragraph (A) there</p> <p>20 is a DIY tool-kit to assist the OC in selecting an RI.</p> <p>21 So how did the tool-kit help?</p> <p>22 MR CHAN YAT HO: Back in 2018, the Wang Fuk Court OC applied</p> <p>23 for Smart Tender, but back in 2016 the mandatory</p> <p>24 building inspection notice was served. Wang Fuk Court</p> <p>25 signed up for the MBIS subsidy scheme. There was</p>

Page 5	<p>1 a scheme run by the Hong Kong Housing Society; the URA 2 and the HKHS each had its own template. 3 Hiring those professionals involved work searches, 4 inspection and the follow-up work, we had book 1 and 5 book 2 for different purposes. As the service agreement 6 says, there was no electronic tendering platform for the 7 RI. So back then the assistance was for the OC to use 8 those templates. 9 The templates of the Hong Kong Housing Society and 10 those of the URA were consistent, identical meaning. At 11 that time, when the OC wanted to engage an RI, they had 12 to put up newspaper ads. So back then the ad was put on 13 our platform. RIs that took an interest could submit 14 a bid after accessing the tender document. 15 Then we came to the return of the tender and the 16 opening of the bids. Those matters fell to the OC. So 17 in engaging the inspector in supervising the works, 18 after the bids were opened, the URA would be notified by 19 the property management. At the inspection stage there 20 were 24 bids and then during the inspection there were 21 35. We got copies from the property management company. 22 Because there were many tenders, we came up with 23 a summary, a list for the OC to refer to. 24 MR VICTOR DAWES: So if I got you right, first you provide 25 a template; second, the ads for engaging an RI would be</p>	Page 7
Page 6	<p>1 on your platform so that the trade would be aware of 2 such a situation. And then once the bids were received, 3 the URA received copies and then the URA came up with 4 the summary. So your work was confined to these three 5 aspects? 6 MR CHAN YAT HO: That's correct. 7 MR VICTOR DAWES: Can you also assist us with something 8 else. The URA appointed an independent consultant. In 9 this case it was RS Surveyors. So what was the work of 10 RS Surveyors during the engagement of the RI? 11 MR CHAN YAT HO: In the case of Wang Fuk Court, as in other 12 case we appointed an independent consultant. First, 13 there was an initial inspection. These were surveyors. 14 They would form a preliminary assessment of what needed 15 to be fixed. They would come up with a ballpark figure 16 for what repairs were needed such as waterproofing for 17 the rooftop and the external walls and then they would 18 come up with an initial report. 19 MR VICTOR DAWES: On 25 January 2019 there was an owners' 20 meeting, annual general owners' meeting at Wang Fuk 21 Court. 67.5 per cent of residents voted for Will Power. 22 So Will Power became the registered inspector for the 23 project. 24 Now, a minor correction here. Paragraph 30 in your 25 witness statement, page 2227 in the Chinese version,</p>	Page 8
<p>1 here you say the registered inspector from Will Power is 2 called Shum King Cheung. It should be Shum Kui Ching. 3 MR CHAN YAT HO: That's correct. 4 MR VICTOR DAWES: In late 2019 Will Power completed the 5 mandatory inspection. In December 2019, Will Power 6 submitted the inspection report to the ICU and also 7 MBI3, that's form MBI3. So that confirmed works were 8 needed. 9 MR CHAN YAT HO: That's correct. 10 MR VICTOR DAWES: Was that the start of your involvement in 11 Wang Fuk Court work? 12 MR CHAN YAT HO: My involvement started when the plans were 13 submitted. 14 MR VICTOR DAWES: On 2 January 2020 the Wang Fuk Court OC 15 started to look for a repairs contractor. Let's look at 16 paragraph 32, page 2227. Likewise, the URA had no role 17 to play during the tendering of the consultant, such as 18 preparing tender documents, receiving the tenders and 19 also opening the bids. On 20 January 2020 the URA did 20 not send any representative to the bid opening occasion. 21 The URA had no record showing whether any submitted 22 tenders were withdrawn. The URA did not take part in 23 the selection -- did not attend the interview and did 24 not provide any advice to the Wang Fuk Court OC. 25 So your work was to put the tendering notice on your</p>	<p>1 platform, just like what happened with the RI? 2 MR CHAN YAT HO: That's correct. 3 MR VICTOR DAWES: The bid was opened on the 20th and you did 4 not attend. Your explanation is consistent with what 5 you said before. In 2018 the service agreement was 6 signed. Smart Tender was simply about selecting the 7 contractor, but not the consultant. So the same 8 practice was adopted for the consultant and also the 9 subsequent works supervisor? 10 MR CHAN YAT HO: Yes. 11 MR VICTOR DAWES: Mr Wong Se King, Peter, also from the URA, 12 in WS/2218, paragraph 54, he had this to say: around 13 June 2019 Smart Tender was put in place. People could 14 go through this electronic tendering platform to hire 15 authorised persons or registered inspectors. 16 So in late 2019, when Wang Fuk Court was selecting 17 an inspector, you could provide help with Smart Tenders; 18 is that correct? 19 MR CHAN YAT HO: That's correct. I want to supplement my 20 response on why the OC did not use the e-platform. They 21 discussed the terms and clauses for the inspection and 22 the investigation. From what we learned, on hiring the 23 inspector, they decided on the tender document. We 24 checked with the OC. They wanted to stick to their own 25 approach, just like what they did with hiring the</p>	

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<p>1 registered inspector.</p> <p>2 MR VICTOR DAWES: So can I press on this point. Smart</p> <p>3 Tender is more than just about drafting the tender</p> <p>4 documents. Tender submission and other parts can also</p> <p>5 be done via Smart Tender and Wang Fuk Court residents</p> <p>6 could use it. Why did they not use it? Or did you</p> <p>7 provide it but they turned it down? What happened?</p> <p>8 MR CHAN YAT HO: As I said, we talked to the OC, but they</p> <p>9 wanted to stick to the approach they took in hiring the</p> <p>10 RI. Just like the subsidy platform later on, they had</p> <p>11 to use the platform.</p> <p>12 MR VICTOR DAWES: So simply put, you offered the service but</p> <p>13 they turned it down?</p> <p>14 MR CHAN YAT HO: Mmm.</p> <p>15 MR VICTOR DAWES: So there was open tendering even though</p> <p>16 they turned down the platform.</p> <p>17 In paragraphs 35 to 38 in your witness statement you</p> <p>18 provided limited assistance, can I put it that way?</p> <p>19 MR CHAN YAT HO: Yes.</p> <p>20 MR VICTOR DAWES: Let's look at these paragraphs. On</p> <p>21 30 January 2020, there was a summary of the tender</p> <p>22 prices for their reference. It was a list of</p> <p>23 information that you felt they needed to know. On</p> <p>24 23 March 2020, URA representatives met with the OC to</p> <p>25 help them make sense of the summary of the prices.</p>	<p>1 MR VICTOR DAWES: On 30 January 2020 you provided this</p> <p>2 summary to the OC. Did you know at that time or did you</p> <p>3 ask the OC to make this public for the residents for</p> <p>4 reference?</p> <p>5 MR CHAN YAT HO: We made such a suggestion. We asked them</p> <p>6 to put it up at the lobby at a conspicuous location, but</p> <p>7 we did not mandate it.</p> <p>8 MR VICTOR DAWES: You do not know if this was put up?</p> <p>9 MR CHAN YAT HO: That's correct. As I said, we explained to</p> <p>10 them the column on the summary, and that's why we had</p> <p>11 this meeting.</p> <p>12 MR VICTOR DAWES: Before we look further into this summary,</p> <p>13 I'd like to refer to your statement paragraph 25. You</p> <p>14 said that the initial assessment report prepared by RS</p> <p>15 Surveyors was dated 9 August 2018; correct?</p> <p>16 MR CHAN YAT HO: Yes.</p> <p>17 MR VICTOR DAWES: Let's look at page E1/1467.</p> <p>18 The stamp of the URA was 18 January 2019. It means</p> <p>19 that you received the report on that day; am I correct?</p> <p>20 MR CHAN YAT HO: That's right. The time stamp was</p> <p>21 18 January 2019. I can explain to you why we received</p> <p>22 the report a few months later.</p> <p>23 When the consultant submits the report, we would</p> <p>24 receive a draft and our colleagues -- we do have</p> <p>25 colleagues with technical backgrounds and they will</p>
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<p>1 MR CHAN YAT HO: Correct.</p> <p>2 MR VICTOR DAWES: And then because of COVID the owners'</p> <p>3 meeting was postponed. Your colleague Mr Brian Yam</p> <p>4 attended the meeting on 11 December 2021; is that</p> <p>5 correct?</p> <p>6 MR CHAN YAT HO: That's correct.</p> <p>7 MR VICTOR DAWES: From 11 to 13 March 2020 the Wang Fuk</p> <p>8 Court OC held interviews for prospective tenderers. You</p> <p>9 did not take part.</p> <p>10 MR CHAN YAT HO: We did not.</p> <p>11 MR VICTOR DAWES: So in hiring the consultant, the</p> <p>12 assistants from the URA were preparing the tender price</p> <p>13 summary and you explained the content; is that correct?</p> <p>14 MR CHAN YAT HO: We also helped promote the tendering</p> <p>15 exercise by putting the newspaper ad on our platform and</p> <p>16 also the tendering document.</p> <p>17 MR VICTOR DAWES: You prepared the summary. E1-4,</p> <p>18 page 8317. This is a list. It says Wang Fuk Court.</p> <p>19 The tender price summary of registered inspector</p> <p>20 consultant. Prescribed renovations period. Did you</p> <p>21 prepare it?</p> <p>22 MR CHAN YAT HO: Mr Yam prepared it.</p> <p>23 MR VICTOR DAWES: About did you look at it?</p> <p>24 MR CHAN YAT HO: Yes, I did. Before submitting the summary</p> <p>25 to the OC I was asked to check it.</p>	<p>1 check the report, that is the draft report. Altogether,</p> <p>2 there were four reports. Our colleagues checked them.</p> <p>3 Sometimes there is a clerical error, calculation errors.</p> <p>4 We ask them to revise them. That's why there is a time</p> <p>5 delay between the draft and the finalised version.</p> <p>6 MR VICTOR DAWES: So you receive the draft before?</p> <p>7 MR CHAN YAT HO: That's correct.</p> <p>8 MR VICTOR DAWES: Please correct me if I'm wrong. When your</p> <p>9 colleagues read these reports, as you said, you look at</p> <p>10 whether there is any typos or calculations mistakes?</p> <p>11 MR CHAN YAT HO: Because Wang Fuk Court participated in the</p> <p>12 MBISS, Mandatory Building Inspection Subsidy Scheme,</p> <p>13 there were initial assessment on the tender report, we</p> <p>14 have to look at the details as to whether the order can</p> <p>15 be met.</p> <p>16 MR VICTOR DAWES: So you looked at whether the construction</p> <p>17 or repair works meet the relevant requirements under the</p> <p>18 mandatory building inspection order because you didn't</p> <p>19 want to break the law?</p> <p>20 MR CHAN YAT HO: That's right. Because if they cannot meet</p> <p>21 the requirements set out in the mandatory building</p> <p>22 inspection order, then the subsidy would not be granted</p> <p>23 to them.</p> <p>24 MR VICTOR DAWES: I'd like to look at the estimates provided</p> <p>25 by RS Surveyors. That's at E1/1474. We're talking</p>

Page 13	<p>1 about 2018. We see that according to the preliminary 2 estimates given by RS Surveyors that the consultant fee 3 is at some \$1 million-odd, \$102 million. We understand 4 that the amount involved in this major renovation work 5 is substantial; we're talking about a project over 6 \$100 million. 7 MR CHAN YAT HO: That's correct. Because eight blocks were 8 involved. 9 MR VICTOR DAWES: As you said, as eight blocks were 10 involved, the works involved, from the perspective of an 11 RI, was rather substantial. 12 MR CHAN YAT HO: That's correct. 13 MR VICTOR DAWES: Say, for example, the RI needed to monitor 14 the works, they needed to draft the plans, monitor the 15 constructions, repair. All these are the things that 16 they had to do. 17 MR CHAN YAT HO: That's right. 18 MR VICTOR DAWES: Let's look at E1-4/8317. That's the 19 tender price summary. Over the right-hand side there is 20 a note. Over the left, I see many numbers and the 21 amount involved at various stages of the works. 22 I believe that you extracted the information from the 23 tender documents? 24 MR CHAN YAT HO: That's right. 25 MR VICTOR DAWES: And I see that you did make some notes and</p>	Page 15
Page 14	<p>1 you do have some assessment or remarks. 2 Can I put it this way: you realised that there were 3 some mistakes or irregularities or something out of 4 place and you would make a note about it. Say, for 5 example, the eighth tenderer. Let's scroll down 6 further. Zoom in. You will see -- scroll further down, 7 please. Here you can see it says miscalculations, the 8 total tender price was miscalculated and the total price 9 was not written at item 3.1 in part C and the third 10 observation is that the RI staff members put in the 11 tender the same as that of another tender. 12 So you did put your observations in the summary 13 after reading all the tender documents? 14 MR CHAN YAT HO: Correct. 15 MR VICTOR DAWES: Let's zoom out. Over the right-hand side, 16 total tender price in purple. The highest bidder is 17 \$2.08 million. The average tender price is 18 approximately about \$550,000. 19 The companies offering -- the lowest price is as low 20 as 45,000. Some offer their work for \$100,000. I'm 21 sure that you noticed it at that time. 22 MR CHAN YAT HO: Right. 23 MR VICTOR DAWES: Wang Fuk Court was not the first project 24 you came across regarding major renovations. Is this 25 common?</p>	Page 16
	<p>1 MR CHAN YAT HO: Yes. 2 MR VICTOR DAWES: Despite the fact that this is common, 3 would you find that peculiar? Would you have any doubts 4 as to why there is such a huge price discrepancy among 5 different tenderers? 6 MR CHAN YAT HO: Well, because for the companies that were 7 just starting out, they may want to accumulate 8 experience. 9 MR VICTOR DAWES: How do you know that that is the reason? 10 MR CHAN YAT HO: I said that according to the cases that I 11 came across, when we are talking about a consultant, 12 there are many cases where there is huge price 13 discrepancy. 14 MR VICTOR DAWES: Apart from the reason that you mentioned, 15 is there any other reasons why there will be such a huge 16 price discrepancy among different tenderers? 17 MR CHAN YAT HO: We do regularly analyse returned tenders. 18 Say for example, here this is only about inspection. 19 There is another case when Will Power won the tender and 20 they charged some 220,000 for inspection, so altogether, 21 together with this \$308,000, is \$500,000. 22 I learned after the fact that they did explain to 23 members why they charge a lower price for this stage is 24 because they already did some preliminary work in 25 advance. As I said, we conduct tender price analysis</p>	

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<p>1 blocks and I would tell them that, on average, 2 consultants or inspectors spend over 10 days on the same 3 number of blocks. So I advise the OC that they should 4 not base their decision solely on the price offered. 5 These are the things that we asked them to pay attention 6 to but we did not imply or suggest them to choose any 7 particular tenderer. 8 MR VICTOR DAWES: So in other words you would point out 9 issues when you identify it, but because you don't want 10 to affect the result you would not imply or direct them 11 to choose any particular consultant or tenderer? 12 MR CHAN YAT HO: Correct. 13 MR VICTOR DAWES: Because you explained to them this summary 14 at the meeting, in other words, you would analyse the 15 summary to them and explain to them whether the price is 16 reasonable or not? 17 MR CHAN YAT HO: We remind the OC of some of our 18 observations, say, for example, why there is such a 19 discrepancy on the number of days or hours to be spent 20 on inspection. All the RI are qualified companies and 21 we ask the OC to be mindful of the things that I just 22 mentioned. 23 MR VICTOR DAWES: Now we are talking about Wang Fuk Court. 24 It's over 1,000 units. Here we have over 2,000 units. 25 It's a rather large-scale project. Compared to the</p>	<p>1 MR VICTOR DAWES: You said that there were companies that 2 were starting out, they want to accumulate experience. 3 That's why they charge you such a low price. Would you 4 be of the view that there could be some irregularities 5 or misconduct or malpractice? 6 MR CHAN YAT HO: I didn't think that. 7 MR VICTOR DAWES: You talked about the analysis you conduct. 8 You said that you have made some analysis. The average 9 tender price is \$680,000 for developments of over 1,000 10 units. Would you inform the OC of such analysis? 11 MR CHAN YAT HO: No. Because different estates have 12 different blocks, different number of units, the works 13 involved are different so there are many factors 14 affecting the price, the data. The numbers I mentioned 15 were for internal reference only. 16 MR VICTOR DAWES: If you look at paragraph 35 of the witness 17 statement, you said that the URA never commented on the 18 submitted tenders; am I correct? 19 MR CHAN YAT HO: Yes. 20 MR VICTOR DAWES: In other words, as you just confirmed, 21 even if you see prices that are completely unreasonable, 22 because you don't want to affect them you were not going 23 to discuss with them? 24 MR CHAN YAT HO: Correct. 25 MR VICTOR DAWES: For independent consultant, RS Surveyors,</p>
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<p>1 \$691,000 work you mentioned, this project is more 2 substantial; am I correct? 3 MR CHAN YAT HO: How should I put it? I've come across 4 projects with a few thousand units. For such a large 5 residential development, they usually conduct works 6 projects in phases. The resources and manpower to be 7 dedicated would be larger because the project will take 8 longer time. 9 MR VICTOR DAWES: So with more units we need more resources, 10 we need more time, so it's reasonable for the tender 11 price to be more expensive? 12 MR CHAN YAT HO: That's correct. 13 MR VICTOR DAWES: Did you have such an observation at that 14 time: Will Power said that they conducted preliminary 15 inspection works and they have already charged over 16 \$200,000. The total price is \$500,000 to work on an 17 estate for over 2,000 units. That is not expensive at 18 that time. Did you think that? 19 MR CHAN YAT HO: No. 20 MR VICTOR DAWES: Having heard what you said, for the tender 21 price of lower than \$100,000, \$80,000, that would be 22 considered cheap, and that's suspiciously cheap from a 23 business perspective. 24 MR CHAN YAT HO: Numerically speaking, yes. They may have 25 some other reasons.</p>	<p>1 regarding the price of the contractors, they conducted 2 an independent analysis. After bids opening, the 3 analysis will be sent to residents. 4 MR CHAN YAT HO: Mmm. 5 MR VICTOR DAWES: We understand that the residents were not 6 informed of that due to various reasons. But at the 7 stage of selection of consultant, no one conducted any 8 analysis as to whether the tenders were reasonable. 9 MR CHAN YAT HO: Correct. 10 MR VICTOR DAWES: Why did no one from URA conduct any 11 analysis? 12 MR CHAN YAT HO: As I said, the discrepancy is too huge. 13 Consultant fee is not like construction works because, 14 for constructions, we can have a per-unit price of the 15 scaffolding, of the cement or concrete, but for 16 consultant there is no objective benchmark for the 17 pricing and there is huge discrepancy for the price of 18 professional services. 19 MR VICTOR DAWES: Well, I think that there is certain level 20 of reasonableness to the price of professional services. 21 For our service, we need to submit a tender to the 22 courts for assessment. Is there any other reason why no 23 one considered the reasonableness of the fees charged by 24 professional service providers? If not, we understand 25 that.</p>

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1 MR CHAN YAT HO: We have no analysis to why that is the
 2 case.
 3 MR VICTOR DAWES: Paragraph 22 of your witness statement
 4 says this, page 2226:
 5 "The URA solely assists OC WFC's reading of the
 6 tender submissions as a non-professional on
 7 30 October 2018 based on the 24 tender materials
 8 provided to the URA by the OC WFC."
 9 You provided a tender price summary. In other
 10 words, you did not consider the relevant document from
 11 a professional perspective.
 12 MR CHAN YAT HO: Correct.
 13 MR VICTOR DAWES: As you look at the tender documents or
 14 submissions as a non-professional, you do not assess
 15 whether the price is reasonable or not?
 16 MR CHAN YAT HO: Correct. We only conduct numerical
 17 analysis or comparison.
 18 MR VICTOR DAWES: I'd like you to look at the tender price
 19 of Will Power. E1-4/8281. Pages 8281 and 8282. Please
 20 refer to these two pages and you will see right here at
 21 different stages the amount of manpower, number of days
 22 of work, as well as the breakdown. You can see the
 23 breakdown and the respective amount.
 24 MR CHAN YAT HO: Yes, that is correct.
 25 MR VICTOR DAWES: On page 8282 you consider tender price is

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1 \$308,000. On page 8281, \$248,000 was spent on MBIS.
 2 And you can see the breakdown: 15 days of preliminary
 3 planning, \$28,000; 23 days for the preparation of tender
 4 documents and analysis, \$32,000; drafting of the
 5 contract, \$20,000; and \$100,000 for phase 3; and \$28,000
 6 for phase 4.
 7 In other words, you are in no position to analyse
 8 whether it is reasonable or not, but in general,
 9 \$248,000 spent by Will Power, it spans six months, that
 10 is 149 days. In fact, more than 149 days, eight blocks
 11 in total. By division it will not be an accurate way to
 12 look at it. Eight blocks, every day \$200. There are
 13 other costs as well: manpower, insurance, planning for
 14 the work, worth \$100 million. So am I right to say that
 15 you didn't provide any comments but when you took a look
 16 at the figures it seems that one would make a loss, one
 17 would not profit from it?
 18 MR CHAN YAT HO: Can I take a look at the figures in purple?
 19 Can you put at another document?
 20 MR VICTOR DAWES: Let's look at another bundle. E1-4.
 21 MR CHAN YAT HO: I'd like to say that first of all we do not
 22 say whether it is reasonable or not. But I'm coming
 23 back to this page because, as you can see, take 40,
 24 there were double-digit companies providing price
 25 quotations. Therefore, I cannot tell that these 10

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1 companies are not reasonable either. This is what I can
 2 say.
 3 The most outstanding outlier, such as \$45,000,
 4 numerically you can still say that. But in this round
 5 of tenders for this price range, there are double-digit
 6 bidders. Will we cast doubt on other companies? No, we
 7 won't do so. We won't say so to the OCs.
 8 MR VICTOR DAWES: As you said just now, if we look at
 9 page 8399, Will Power Architects Co Ltd, there is a
 10 letter sent to the management office by Will Power, they
 11 explain the low cost. In the letter it says that
 12 Will Power conducted previous tests and had a good
 13 understanding of the buildings. You touched upon this
 14 as well. Did you read this letter at that time? Did
 15 you know this letter?
 16 MR CHAN YAT HO: At that time I did not. I only came to
 17 know this letter afterwards. Before that, I didn't read
 18 this letter.
 19 MR VICTOR DAWES: Based on the explanation provided in the
 20 letter, you came to know this afterwards. Do you find
 21 this explanation reasonable?
 22 MR CHAN YAT HO: Well, I wouldn't comment whether it is
 23 reasonable or not. At that time Will Power very much
 24 wanted to do this business. I will put it this way.
 25 MR VICTOR DAWES: And you would not consider whether it's

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1 reasonable or not?
 2 MR CHAN YAT HO: Correct.
 3 MR VICTOR DAWES: And you would not consider either -- well,
 4 let me put it this way. Probably I didn't ask you
 5 clearly.
 6 You wouldn't consider whether this business is at a
 7 loss?
 8 MR CHAN YAT HO: Right.
 9 MR VICTOR DAWES: Honestly, what we need to deal with in
 10 this Independent Committee, just looking at the figures,
 11 are there any risks of malpractice or bid-rigging? From
 12 what you say, you don't seem to consider this; is that
 13 correct?
 14 MR CHAN YAT HO: Correct. We would not consider.
 15 MR VICTOR DAWES: Let's refer to your own witness statement.
 16 We have looked at it previously. You looked at the
 17 tender prices from a non-professional perspective and
 18 you left it to others?
 19 MR CHAN YAT HO: What do you mean by "others"?
 20 MR VICTOR DAWES: Well, this is exactly what I want to know.
 21 Excuse me.
 22 Probably I put it this way. Regarding risks of
 23 bid-rigging, you have returned tender prices. The URA
 24 would not consider them.
 25 MR CHAN YAT HO: Consultants --

Page 25	<p>1 MR VICTOR DAWES: Well, let's not conflate them. From the</p> <p>2 price of consultants, are there any risks of</p> <p>3 bid-rigging? You will leave it to others; is that</p> <p>4 correct?</p> <p>5 MR CHAN YAT HO: Yes. For one to join this scheme -- we are</p> <p>6 not professional in this regard. We are not a law</p> <p>7 enforcement agency. For any subsidy scheme, one would</p> <p>8 take part in other schemes, other related schemes. So</p> <p>9 other stakeholders or departments will be responsible</p> <p>10 for this.</p> <p>11 MR VICTOR DAWES: For some documents, they are signed by RIs</p> <p>12 and they have to do with risks of bid-rigging. Let's</p> <p>13 take a look at paragraph 29 of your witness statement.</p> <p>14 At the submission of the tender documents, one needs to</p> <p>15 sign a document that is a self-declaration on integrity</p> <p>16 and anti-collusion.</p> <p>17 In your second witness statement paragraph 5, there</p> <p>18 is another -- witness statement paragraph 5, you once</p> <p>19 again confirm this declaration. I'd like to confirm</p> <p>20 whether the same declaration applies to RI as well as</p> <p>21 consultant. Is that the same document?</p> <p>22 MR CHAN YAT HO: Yes, the same. As I said, there would be</p> <p>23 two tender documents. We have one template: inspection</p> <p>24 and monitoring. There is just one document. There</p> <p>25 won't be two documents.</p>	Page 27
Page 26	<p>1 MR VICTOR DAWES: There is another document. In the course</p> <p>2 of inspection, Will Power needs to sign another</p> <p>3 document, E1-4/8308. This is the ethical commitment.</p> <p>4 There is another document on page 8310. That is the</p> <p>5 confirmation of -- well, that is the anti-collusive</p> <p>6 tendering certificate.</p> <p>7 On page 8379, at another stage, it was signed once</p> <p>8 again, that is, at the stage afterwards, at the remedial</p> <p>9 works. Once again, anti-collusive tendering certificate</p> <p>10 on page 8359. For RI to sign these declarations or</p> <p>11 certificates, you need them to confirm that they did not</p> <p>12 violate any requirements.</p> <p>13 MR CHAN YAT HO: Correct.</p> <p>14 MR VICTOR DAWES: Can I put it this way: they needed to sign</p> <p>15 these declarations because 2019 to 2020, for the works</p> <p>16 of large-scale buildings, bid-rigging was actually</p> <p>17 common, hence these documents. Can I put it this way?</p> <p>18 MR CHAN YAT HO: Yes, you may say so.</p> <p>19 MR VICTOR DAWES: I'm not sure if you have read it, but I'd</p> <p>20 like you to refer to the situation back then. Let's</p> <p>21 take a look at the situation a couple of years back</p> <p>22 then, 2016. Bundle U1, page 11. If you refer to the</p> <p>23 pages before that, you will see a report from the</p> <p>24 Competition Commission. You may not have been aware of</p> <p>25 this report but I'd like to draw you to the contents of</p>	Page 28
Page 27	<p>1 the report. It's probably something that the URA knows.</p> <p>2 Let's go to paragraph 11 on page 11. These are bid</p> <p>3 manipulation practice, these are malpractices. Let me</p> <p>4 read it:</p> <p>5 "A second type of bid-manipulation practice (which</p> <p>6 may accompany or facilitate the conduct described in the</p> <p>7 preceding paragraph) occurs where a consultant and a</p> <p>8 contractor conspire with each other so that the</p> <p>9 particular consultant wins the bid to oversee the tender</p> <p>10 for the physical works ... and then organises for its</p> <p>11 allied contractor to win the bid for the renovation work</p> <p>12 at an inflated price. Again, the ordinary homeowner</p> <p>13 pays more because of this bid-manipulation practice."</p> <p>14 Basically it's about consultant and a contractor,</p> <p>15 that is the collusion between these two companies using</p> <p>16 a very low price to win a tender or to win a bid. Then</p> <p>17 the works could be completed at a high cost. This is</p> <p>18 how they profit from the process.</p> <p>19 You knew this, a lot of people knew this?</p> <p>20 MR CHAN YAT HO: Yes, you may say so.</p> <p>21 MR VICTOR DAWES: Let's look at paragraph 27. I believe you</p> <p>22 know this as well. There is a graph. From the</p> <p>23 information it can be seen the prices provided by some</p> <p>24 bidders. Paragraph 27, page 15:</p> <p>25 "The red line in the figure indicates the minimum</p>	Page 28
Page 28	<p>1 estimate of costs associated with even the most basic</p> <p>2 consultancy project as provided by an industry expert.</p> <p>3 More than 65 per cent of the bids submitted by</p> <p>4 consultants fall below that estimate. This may suggest</p> <p>5 that consultants' bids are suspiciously low in many</p> <p>6 projects. One possible interpretation would be the</p> <p>7 consultants bid aggressively low in order to win</p> <p>8 a project and subsequently benefit from awarding</p> <p>9 renovation work to a particular contractor."</p> <p>10 The same set of figures but it was read by other</p> <p>11 experts in the industry. Just as you confirmed just</p> <p>12 now, the URA understands this well.</p> <p>13 MR CHAN YAT HO: Yes.</p> <p>14 MR VICTOR DAWES: Let's look at paragraph 7. We can see the</p> <p>15 information is provided to the Competition Commission so</p> <p>16 that they can prepare this report. Large-scale</p> <p>17 renovation works bid-rigging is common. That is why the</p> <p>18 URA has Smart Tender to clamp down on these issues.</p> <p>19 This is what we all know; is that correct?</p> <p>20 MR CHAN YAT HO: Yes.</p> <p>21 MR VICTOR DAWES: Regarding the risks of bid-rigging or</p> <p>22 collusive bid-rigging, it's not just about the selection</p> <p>23 of contractors. There are great risks when it comes to</p> <p>24 the selection of registered inspectors. That is because</p> <p>25 a consultant can help one of the contractors to profit</p>	Page 28

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<p>1 significantly from the works and this is what you all 2 understand? 3 MR CHAN YAT HO: Yes. 4 MR VICTOR DAWES: In the course of RI inspection or the 5 selection of consultants, no services of Smart Tender 6 were provided. Smart Tender was not required to be used 7 during that stage. This is also one of the reasons why 8 the risks of bid-rigging could not be reduced. 9 MR CHAN YAT HO: Back then there was no electronic tendering 10 services in relation to consultants. 11 MR VICTOR DAWES: Even if the service was used -- we have 12 already looked at the figures. Some RIs won the job at 13 a low cost so they could help other parties to engage in 14 bid-rigging. Even if they had used this service, the 15 risks could not have been reduced, as stated in the 16 report. Do you agree? 17 MR CHAN YAT HO: Well, cannot guarantee 100 per cent. With 18 an electronic tendering programme or without the 19 electronic tendering platform, my position stays the 20 same. 21 MR VICTOR DAWES: Well, pause here. I will give you 22 opportunities to explain in detail. We understand -- we 23 cannot tell for sure for a lot of things, we cannot be 24 certain. Let's go back to the topic we discussed. Some 25 RIs won the projects at a low cost, at an unreasonable</p>	<p>1 owners' general meetings to select contractors and 2 consultants. 3 You needed to have this occasion for bid-rigging to 4 take place or to occur. Sometimes residents cast votes 5 but some also based their decision on price. I was 6 asked on one occasion probably they have chosen a bid 7 that is the second or the third lowest, but the range 8 might be between 100,000 and 1 million. So some might 9 ask, you cannot say that a company offering a low cost 10 could not complete the projects. As a member of the 11 public, I might prefer lower costs. 12 MR VICTOR DAWES: So can I put it this way. Your response 13 highlights the issue. That's because the cost comes 14 first for the public. They lack the knowledge or 15 experience to judge whether there is illegal behaviour, 16 there's bid-rigging. If you did not analyse the prices, 17 then we could not resolve the problem. I believe 18 you would agree? 19 MR CHAN YAT HO: I agree. 20 MR VICTOR DAWES: There were constraints for the previous 21 practice. If the URA launched Smart Tender to reduce 22 the risk of bid-rigging, then the public would expect 23 a lower risk if they use Smart Tender? 24 MR CHAN YAT HO: Right. 25 MR VICTOR DAWES: Then with this problem of low prices and</p>
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<p>1 cost, completely unreasonable, to help unlawful 2 contractors to engage in bid-rigging. In the course of 3 the selection of RIs, that could not reduce the risks of 4 bid-rigging. Do you agree? 5 MR CHAN YAT HO: I cannot 100 per cent agree. The purpose 6 of the Smart Tender was that before the year 2016, when 7 you submit a tender, there would be malpractices. For 8 instance, the management office collected administrative 9 fees. So someone would not want to waste unnecessary 10 administrative fees. And some optical discs, some 11 graphs are actually blank. I've been engaged in this 12 industry for a long time and I have seen all these 13 instances. At the time of the submission of tenders, 14 some would cause obstruction to the tender boxes. There 15 are security guards manning the boxes 24 hours a day. 16 There may even be intimidation if one wants to submit a 17 bid. For electronic tendering platform, as the 18 submission is conducted on an anonymous basis, each 19 other won't know who submitted the bids. 20 The risks of bid-rigging will be reduced, but the 21 malpractices cannot be eradicated completely. With 22 Smart Tender, just now Mr Dawes asked me a question and 23 even with Smart Tender, the risks could not be 100 per 24 cent eliminated. Aside from the Wang Fuk Court issue, 25 I have handled hundreds of other cases. I attended</p>	<p>1 the URA does nothing about it, then the public proceeds 2 on a faulty assumption because they think they use Smart 3 Tender, they're safe. Do you agree with this 4 observation? 5 MR CHAN YAT HO: I do not entirely agree with you. 6 MR VICTOR DAWES: So you partially agree? 7 MR CHAN YAT HO: As I said, with or without electronic 8 tendering, we provided the summary to the owners' 9 corporation. We also explained things. So there was 10 explanation. The OC makes their decision. Does the OC 11 explain the same concept to the residents? Do the 12 residents buy the explanation? Other factors are at 13 play. 14 MR VICTOR DAWES: Point taken. I understand your position. 15 Let's look at tendering for the contractor because 16 that's where your involvement increased. From 2021 to 17 April 2024 there was tendering for the contractor and 18 then in the end Prestige was selected. Let's look at 19 your first witness statement, page 445. 20 Let's look at bundle WS1, page 445. You see in this 21 flowchart -- this is very helpful because you set out 22 the entire process. On 29 September 2022, the URA 23 received the cost estimate in the form of a report from 24 Will Power. Can we look at your Chinese statement, 25 paragraph 42. Here you explain the procedure. E1-4,</p>

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<p>1 page 8579. This was signed by Mr Shum; that's his 2 signature, on 22 September. That's dated 22 September. 3 On 15 July Mr Shum passed away, so how come he 4 signed the report in September? 5 MR CHAN YAT HO: We had no idea back then. 6 MR VICTOR DAWES: RS Surveyors also appeared to be in the 7 dark. They prepared as independent consultant a 8 pre-tender assessment report in the end. That's 9 referred to as TAR1 in your statement. Let's look at 10 8593. 11 Paragraphs 43 to 45 of your witness statement shows 12 me that there were two functions of a TAR or tender 13 assessment report. So RS Surveyors had to look at the 14 draft plan of Will Power. They had to check for errors, 15 discrepancies or technical inadequacies or omissions. 16 They had to look out for the mandatory items but were 17 missing. So you wouldn't want to finish the works 18 without resolving what's mentioned in the MBIS notice. 19 Then they also had to look at the costs. When they 20 saw costs significantly higher or below the estimate 21 from RS Surveyors, they will look at the 30 per cent 22 mark. 23 Let's look at TAR1. Page 8600. There's a table, 24 table 4. So this is RS Surveyors. The cost estimate is 25 \$224.9 million.</p>	<p>1 drains on the ground. I stress that the initial report 2 was based on observations with eyes only, but then later 3 on there was a CCTV report. At first, when you observe 4 things, you could not check what's going on with the 5 drains on the ground, and later on you find out more. 6 So the draft tender document came with a bigger scope 7 than the initial estimate. 8 MR VICTOR DAWES: So based on what you said, the initial 9 estimate is not very meaningful because every time the 10 tender document comes with a much higher cost, many 11 things are missed. So why would you need the first, the 12 initial estimate? 13 MR CHAN YAT HO: I do not agree, and here's why. So we sent 14 someone to explain every report to the owners' 15 corporation. We stress that the estimate is a ballpark 16 figure. It's a very preliminary ballpark figure. Then 17 when the consultant comes along and drafts the tender 18 document, you go through each item. At that point you 19 come up with a more accurate estimate. Does that mean 20 the table is meaningless? I disagree. Some buildings 21 take part in the Mandatory Building Inspection Subsidy 22 Scheme not necessarily because they got an MBIS notice. 23 Maybe it's that their buildings are 30 years old, they 24 feel the need for repairs project, so they take part in 25 our scheme like what you do with a health check. That's</p>
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<p>1 Let's look at page 1474. Back then the initial 2 estimate was \$102 million, and then it was estimated to 3 be \$224 million. So the amount doubled. Before we move 4 on, I have a question for you. Is that common? 5 MR CHAN YAT HO: It is common. This happens to every 6 building. 7 MR VICTOR DAWES: So you have an initial cost estimate and 8 then the independent consultant comes to you with a much 9 higher estimate? 10 MR CHAN YAT HO: On the reason, the preliminary report was 11 based on a third party's assessment. And then when we 12 came to PAR1, that was when you had the draft tender 13 document. The draft tender document, in more than 14 90 per cent of cases, came with a scope larger than what 15 the independent consultant observed with their eyes at 16 first and they were tailor-made items in the end. So 17 when it came to the tender stage the scope was bound to 18 be larger than what the independent consultant saw at 19 first, because you're no longer making an apple-to-apple 20 comparison. At that point you can no longer compare the 21 subsequent estimate with the sum in the initial report. 22 MR VICTOR DAWES: So at first the IC didn't see everything 23 and later on they realised more works were needed, so 24 the cost estimate goes up? 25 MR CHAN YAT HO: I can give you a typical example. The</p>	<p>1 why we call them, a health check. They get an initial 2 cost estimate. The sum may go way beyond their own 3 estimate and they may not want to proceed. 4 MR VICTOR DAWES: I want to pause here. But in most cases, 5 those buildings were served with an MBIS notice. 6 MR CHAN YAT HO: Of course, especially for fire safety 7 notices -- 8 MR VICTOR DAWES: But for so many old buildings in 9 Hong Kong. 10 MR CHAN YAT HO: I would say 98 per cent. 11 MR VICTOR DAWES: So you're saying in 2 per cent cases 12 buildings voluntarily take part in the scheme; in 13 98 per cent of the cases buildings take part in the 14 scheme because they are ordered to? 15 MR CHAN YAT HO: That's right. 16 MR VICTOR DAWES: So correct me if I'm wrong. You perform 17 an initial inspection and come up with an estimate and 18 then the consultant visits the building and comes up 19 with an estimate and residents are alarmed? 20 MR CHAN YAT HO: Not exactly alarmed. That's because they 21 also look at the draft tender document. They will see 22 the differences between the draft tender document and 23 the initial estimate. Whether they will be alarmed, not 24 many will be alarmed, but they will know there are 25 differences.</p>

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<p>1 MR VICTOR DAWES: Got it. So in this case the sum doubled. 2 You were not surprised and you did not check with 3 RS Surveyors about that? 4 MR CHAN YAT HO: That's correct. 5 MR VICTOR DAWES: RS Surveyors did explain. On page 8598, 6 2.3, they explained the discrepancy. These are the 7 usual explanations for the discrepancy. 8 So what can this report do? So RS Surveyors 9 assessed PAR1. They had to look at whether the works, 10 once performed, would comply with the Mandatory Building 11 Inspection Scheme. They should also perform analysis on 12 whether the works were needed. Did they? 13 MR CHAN YAT HO: They wouldn't do that. Often there may be 14 dozens of optional items. Our consultant does not 15 prevent an OC from opting for optional items simply 16 because those are optional items, because the OC 17 discusses the item with their contractors. 18 MR VICTOR DAWES: Let me try to ask this question in 19 a different way. So optional items are something you 20 can opt for or not, but then, for mandatory items, what 21 appears to be mandatory items -- and then they are 22 alongside optional items -- the consultant does not 23 consider these points? 24 MR CHAN YAT HO: They don't do that. I want to give you an 25 example. Say external wall repairs. They are a part of</p>	<p>1 MR CHAN YAT HO: Yes. 2 MR VICTOR DAWES: Because of the mechanism of the Smart 3 Tender, RS Surveyors will put the final assessment into 4 a sealed envelope and it will be locked into a box 5 stored by URA. After all the bids are opened, this 6 assessment will be unsealed for OC's reference; is that 7 right? 8 MR CHAN YAT HO: The tenders will be sealed and placed into 9 the tender box and they will be opened all together when 10 the bids are opened. 11 MR VICTOR DAWES: The reason why the benchmark price of the 12 URA to the contractors is that we don't want the 13 contractors to know the benchmark price of the URA, and 14 that's to prevent bid-rigging. 15 MR CHAN YAT HO: Yes. 16 MR VICTOR DAWES: We ask them to independently submit their 17 tenders to prevent collusion. 18 MR CHAN YAT HO: Correct. 19 MR VICTOR DAWES: On 30 December 2022, RS Surveyors 20 submitted a draft tender document for proscribed work to 21 you. That's at E1-4/8613. 22 In paragraph 49 of your witness statement, you said 23 that the PAR1 would have been considered when Will Power 24 submit the revised draft tender document. 25 MR CHAN YAT HO: Yes.</p>
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<p>1 mandatory repairs. There may be different options when 2 it comes to the finishes you use for the external wall 3 repairs. All three options are good enough for the 4 mandatory building inspection. We do not tell the OC to 5 go for the most basic option because the choice is for 6 the OC and the residents. 7 MR VICTOR DAWES: You cited one example. There are some 8 items that appear mandatory but then there are also 9 options that may be optional but that's beyond the 10 consideration of RS Surveyors. Can I put it that way, 11 so they don't comment? 12 MR CHAN YAT HO: They don't. 13 MR VICTOR DAWES: I have some other points to go through. 14 Maybe we can take a break here and then I will continue 15 the discussion. 16 THE HON MR JUSTICE DAVID LOK: Let's take a 15-minute break. 17 (11.15 am) 18 (A short adjournment) 19 (11.30 am) 20 THE HON MR JUSTICE DAVID LOK: Please proceed. 21 MR VICTOR DAWES: Mr Chan, let's look at E1-4/8600, table 4. 22 In your witness statement, paragraph 46 and 23 paragraph 47, you said that when the RS Surveyors sent 24 the PAR1, this table would not be disclosed to any third 25 parties, to prevent bid-rigging; right?</p>	<p>1 MR VICTOR DAWES: Did RS Surveyors or URA vet the draft 2 tender document? 3 MR CHAN YAT HO: Yes. 4 MR VICTOR DAWES: Who vetted? 5 MR CHAN YAT HO: RS Surveyors. 6 MR VICTOR DAWES: You would not? 7 MR CHAN YAT HO: No. 8 MR VICTOR DAWES: The reason being RS Surveyors will have to 9 look into whether amendments have been made by 10 Will Power in accordance with comments from the third 11 party. 12 MR CHAN YAT HO: Correct. 13 MR VICTOR DAWES: In March 2023 there were two meetings. On 14 4 March 2023, EGM was convened to confirm the tender 15 documents and the consultant mentioned the assessment 16 criteria such as the background and the reasonableness 17 of the price submitted by the contractors. Let's look 18 at page 8760. This is the relevant record. 19 After this meeting, on 17 March, the management 20 committee of the OC confirmed the detailed tender 21 assessment criteria. You are aware of that? 22 MR CHAN YAT HO: Right. 23 MR VICTOR DAWES: That's at page 8771. This is the relevant 24 minutes of the meeting. It seems that the URA did not 25 send any staff to these two meetings; can you confirm</p>

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<p>1 that? And with regard to these two meetings, you did 2 not provide advice on the tender assessment criteria on 3 bid-rigging? 4 MR CHAN YAT HO: Correct. 5 MR VICTOR DAWES: It's not your practice to attend these 6 meetings? 7 MR CHAN YAT HO: Correct. 8 MR VICTOR DAWES: Let's look at the minutes of the meeting 9 on 17 March 2023, item 5 at the bottom. 5.1 says that 10 Chairman Tang, that's the chairman of the OC, report the 11 tender assessment criteria proposed by Will Power. They 12 comprise background of the company, tender price, 13 reasonableness and the assessment on interview. The 14 criteria have been disclosed at the latest Wang Fuk 15 communications documents and the EGM on 4 March. 16 Regarding the company background, Chairman Tang set 17 out the assessment criteria, including the licences of 18 the contractors, ISO, past works records, litigation 19 records, so on and so forth. 20 Two of these criteria have been mentioned previously 21 in this evidential hearing, that is 8, the proof of no 22 litigation issued by a practising solicitor for the past 23 two years and the litigation records over the past eight 24 years. 25 In 5.3 we see that the management office have acted</p>	<p>1 Mr Yam, that's Brian -- this email is from 8762 to 2 8769. At this page we see some handwritten notes. This 3 is made by Mr Yam? 4 MR CHAN YAT HO: Correct. 5 MR VICTOR DAWES: You said that you've read these proposed 6 amendments? 7 MR CHAN YAT HO: Yes. We discussed it and he marked it on 8 the paper by hand. 9 MR VICTOR DAWES: If I'm not mistaken, it means that you 10 comment on the wordings of the criteria and you also 11 assess the reasonableness on the same number of years. 12 We did make some proposals or suggestions. But as to 13 whether the framework is reasonable or effective, you 14 will not comment on that? 15 MR CHAN YAT HO: That's correct. We will not ask them to 16 delete some of the criteria, for example. 17 MR VICTOR DAWES: So in other words, whether or not the 18 criteria is effective, you would not comment on it or 19 you would not make analysis of it? 20 MR CHAN YAT HO: Can you repeat the question? 21 MR VICTOR DAWES: Having read the assessment criteria, 22 whether or not they are effective or appropriate, you 23 will not comment on it? 24 MR CHAN YAT HO: Regarding items, we may not necessarily 25 give comments, but in relation to the amounts, we might</p>
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<p>1 in accordance with request from the MC and submitting 2 the assessment criteria to the URA. On 15 March, the 3 URA said that they have no other suggestions or advice 4 on the assessment criteria framework. They said that we 5 need to clarify some of the wordings on the assessment 6 criteria for some particular items. 7 5.4, this is the advice offered by the URA. The 8 assessment criteria is to be amended as follows: item 1, 9 necessary; item 7, if there is litigation, zero mark; no 10 litigation, three points. 11 Paragraph 51 of your witness statement, it seems 12 that the URA agreed with what the management office 13 said, that is on 15 March, email of Mr Brian Yam, you 14 have advised on the wordings of some of the tender 15 assessment criteria but you did not offer any concrete 16 advice on the criteria. 17 MR CHAN YAT HO: Before the email sent by Mr Brian Yam, he 18 discussed the criteria with me. We never add or delete 19 any of the proposed criteria of the OC. But regarding 20 the wordings, we did make some proposed amendments. 21 I remember that we proposed some amendments on number of 22 years, from five years to two years. So this is just an 23 amendment on the number of years. 24 MR VICTOR DAWES: Let's look at the email on page 8762. 25 Let's zoom out.</p>	<p>1 give comments. For instance, the amounts need to tally. 2 For example, item 5, less than \$100 million. Regarding 3 comments on individual blocks, we will discuss with the 4 consultant or the OC. When you have this criterion, 5 there may be a lot of bidders or tenderers that might 6 not fit the criteria. 7 MR VICTOR DAWES: Items 8 and 9, just now we took a look at 8 these. Item 8, recent two years, certificate of no 9 litigation issued by a practising solicitor. And item 10 9, litigation record in the past eight years. So you 11 don't give comments on these? 12 MR CHAN YAT HO: Right. 13 MR VICTOR DAWES: Witness statement paragraph 51. The fact 14 that you don't give any comments is that you do not want 15 to give people the impression that you favour any 16 particular side. 17 MR CHAN YAT HO: Right. 18 MR VICTOR DAWES: I'd like to know the reason for this 19 consideration. Some requirements probably deviate from 20 usual practice and you will not give any comments; is 21 that correct? 22 MR CHAN YAT HO: Correct. 23 MR VICTOR DAWES: You are afraid that people might accuse 24 you of favouritism. 25 MR CHAN YAT HO: Some OCs within their internal meetings or</p>

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<p>1 AGMs, as long as they provide us with the record, that 2 will do. For Wang Fuk Court, they oftentimes had 3 communication regarding their views. So, strictly 4 speaking, we shouldn't reply. 5 MR VICTOR DAWES: In other words, regarding the appearance 6 of the contractors, you do not give any due regard? 7 MR CHAN YAT HO: Correct. 8 MR VICTOR DAWES: I understand the concerns over favouritism 9 or being partial, but the standard should be the same, 10 so why the worry? 11 MR CHAN YAT HO: They have discussed with the OCs so we have 12 trust in the consultant and they will only have this 13 tender assessment criteria after related experience. On 14 this basis, we do not give any comment on 15 professionalism in this regard. 16 MR VICTOR DAWES: Bid-rigging covers manipulation over the 17 tender assessment criteria. If the URA worries that 18 there may be worries about partiality, this is indeed a 19 major loophole. Do you agree? 20 MR CHAN YAT HO: I do not agree a 100 per cent. With the 21 tender assessment criteria, they are actually not carved 22 in stone. Some buildings might not have tender 23 assessment criteria, so after a tender is returned, 24 there are other factors at play such as interviews. 25 Afterwards, a recommendation might be made.</p>	<p>1 the relevant department. 2 For the Urban Renewal Authority, these are very 3 important; is that correct? 4 MR CHAN YAT HO: I agree. 5 MR VICTOR DAWES: The URA does read this document? 6 MR CHAN YAT HO: We read this report. Regarding the closed 7 envelope, we will only know after opening the tenders. 8 MR VICTOR DAWES: On to page 8944, paragraph 3.3, this 9 report adopts the basis of visual inspection. There is 10 no testing or experiment conducted. 3.4, staircases, 11 rooftop, external walls are included but not individual 12 units. Areas with no access or hidden areas with no 13 access are not covered in the report. 14 Item 3.5, as for the fees, in the absence of 15 detailed design, as well as other factors such as 16 fluctuations and manpower costs and other prices, it 17 could only be used as general reference. 18 I'd like to see if you can help us. For this 19 independent construction fee assessment, it is for the 20 URA to assess whether there is any bid-rigging. It is 21 one of the tools. Can I put it this way? 22 MR CHAN YAT HO: No. It's not related to bid-rigging. For 23 the independent estimate there are two main purposes. 24 One, at the time of the opening of the tenders, it will 25 be listed in the record and residents at that time can</p>
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<p>1 MR VICTOR DAWES: So without tender assessment criteria, 2 even in this space you would not propose any tender 3 assessment criteria. 4 MR CHAN YAT HO: Correct. It is their own decision. There 5 is no tender assessment criteria and price per se might 6 already be a tender assessment criterion. 7 MR VICTOR DAWES: They might only consider the price. 8 MR CHAN YAT HO: So what I meant is that there might not 9 necessarily be tender assessment criteria. 10 MR VICTOR DAWES: On 27 March 2023 we understand that the 11 URA has received the final tender documents, and 12 RS Surveyors, on 19 April, prepared PAR2, that is 13 pre-tender assessment report part 2, that is to confirm 14 whether the tender is compliant with the requirements 15 that has to do with price. And an independent 16 construction fee assessment needs to be attached as 17 well. 18 Please refer to page 8941. You can see assessment 19 report here. In paragraph 2 you can see that the 20 company has already scrutinised the tender, the 21 finalised version submitted by the applicant, as well as 22 the acknowledgement of receipt. Attached with report is 23 the finalised revised tender document on the 24 construction works. The applicant confirms the 25 assessment of the construction fees for the follow-up of</p>	<p>1 refer to it as a reference. 2 The second purpose of this is that as they have 3 taken part in the IBRAS, if the estimate is \$80 million 4 but then if the final amount is \$100 million, as it is a 5 public fund, we will use the basis of \$80 million as the 6 basis. These are the two main purposes. It doesn't 7 mean with this report or with this estimate it can be 8 one of the ways to eradicate bid-rigging. This is not 9 the purpose of this report. 10 MR VICTOR DAWES: Well, the independent cost estimate has 11 nothing to do with anti-bid-rigging? 12 MR CHAN YAT HO: Correct. 13 MR VICTOR DAWES: It will not be considered? 14 MR CHAN YAT HO: Correct. 15 MR VICTOR DAWES: On to page 8947. We can see different 16 items. Item 3, works to the external walls. We can see 17 solution 1. \$37 million. Under the gross total we can 18 see the final amount of \$144 million. If option 3 is 19 adopted, the final amount will arrive at \$252 million. 20 On to the next page, 8948. You can see options 1, 21 2, 3. Option 3 here, 252,728,017. That is the amount. 22 If option 3 is used, the independent cost estimate will 23 estimate that the project will cost around \$360 million. 24 MR CHAN YAT HO: Mmm. 25 MR VICTOR DAWES: On 16 May 2023, the Smart Tender platform</p>

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<p>1 was used to take out an advertisement. A tender notice 2 is sent for all contractors that have registered. They 3 will know it; is that correct? 4 MR CHAN YAT HO: They will receive an email notification. 5 If interested, they may consider submitting a tender 6 document. 7 MR VICTOR DAWES: In the same year, on 5 July, a registered 8 accountant has witnessed this on the same day that the 9 documents were opened. Then Will Power, in accordance 10 with the assessment criteria, analysed five tender 11 documents. Will Power provided PAR. Page 9557. This 12 is the tender analysis report. And you can see Mr Ng 13 Yeuk; right? 14 MR CHAN YAT HO: Yes. 15 MR VICTOR DAWES: He is the then RI, with an RI number? 16 MR CHAN YAT HO: Yes. 17 MR VICTOR DAWES: Any contact between you and Mr Ng? 18 MR CHAN YAT HO: No. 19 MR VICTOR DAWES: Pages 4 to 6 of the report, page 9560. 20 A total of 57 companies that have submitted tenders. 21 Some have to do with PC&E. Mr Hau Wa Kin of PC&E at 22 least has association with five companies that have 23 submitted tenders. We have this piece of information 24 from public information, say the Companies Registry. 25 Can I put it this way. When the URA received this</p>	<p>1 other projects, that is Garden Vista. In March 2023, 2 residents, together with a lot of government 3 departments, have mentioned this incident. 4 Let's go to another page, G1-1/664. Before you came 5 to give evidence, had you read this email? Paragraphs 3 6 and 4. Let us scroll down to read paragraphs 3 and 4. 7 MR CHAN YAT HO: Based on my impression, probably I have 8 seen it. 9 MR VICTOR DAWES: Because you were responsible for PC&E, so 10 this email should have been presented to you. In the 11 course of handling bid-rigging, the URA didn't consider 12 this, they didn't know; is that correct? 13 MR CHAN YAT HO: Mmm. 14 MR VICTOR DAWES: Paragraph 60. On 12 October 2023, the URA 15 attended a meeting at the request of the OC of Wang Fuk 16 Court; right? 17 MR CHAN YAT HO: Mr Yam went to this meeting. I didn't 18 attend this meeting. 19 MR VICTOR DAWES: You said during the meeting the URA said 20 that in the requirements set out in the DIY tool-kit the 21 URA must invite the five lowest bidders to the interview 22 before resolving to accept the bid. Interviews were 23 conducted with five companies. Then consultant could 24 ask questions regarding the tender such as whether there 25 is any litigation, any prosecution before. The URA was</p>
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<p>1 report, it wasn't your responsibility to check any 2 association among these companies and that is why you 3 didn't do it; is that correct? 4 MR CHAN YAT HO: Right. 5 MR VICTOR DAWES: Who should do this; the consultants? 6 MR CHAN YAT HO: Yes, the consultant would just read the 7 report. Regarding the 57 tenders here, we would not put 8 them under a microscope. We wouldn't individually look 9 at these tenders. 10 MR VICTOR DAWES: Let's not talk about whether you would put 11 these under a microscope. It is not your responsibility 12 for checking any associations among these companies, is 13 that correct, and based on your understanding the 14 consultant would do so? 15 MR CHAN YAT HO: Right. 16 MR VICTOR DAWES: Would you follow up on the consultant, 17 whether they have done so? 18 MR CHAN YAT HO: That will be reflected in the report. 19 MR VICTOR DAWES: There is a contractor tender analysis 20 report. In this case, the association of the companies 21 that have submitted tenders have not been disclosed and 22 whether they have been engaged in bid-rigging works, no 23 information either. 24 PC&E is actually one of the companies involved, and 25 there are other suspicions or doubts in relation to</p>	<p>1 never invited to this meeting; is that correct? 2 MR CHAN YAT HO: Well, even if we were invited, we would not 3 attend this meeting. 4 MR VICTOR DAWES: This is what is set out in paragraph 60. 5 Page 2231. On 12 October, at the request of the OC, the 6 URA attended a provisional meeting. Then the last three 7 lines: 8 "The URA was never requested or invited to attend 9 and did not attend any tendering interview organised by 10 the Wang Fuk Court OC and did not receive any detail 11 about the interviews from the OC. The URA and its 12 independent consultant never received the progress 13 report on building renovation prepared by Will Power." 14 As you said, this is correct. I interrupted you 15 a moment ago. You said even if you were invited, 16 you would decline. 17 MR CHAN YAT HO: Correct. 18 MR VICTOR DAWES: Based on the Smart Tender procedure, the 19 URA would not take part in the process? 20 MR CHAN YAT HO: That's correct. 21 MR VICTOR DAWES: On 4 December 2023, so towards the end of 22 the year, RS Surveyors circulated a returned tender 23 price report. Let's look at page 9139. At the bottom, 24 "Prepared by RS Surveyors". Later, Will Power submitted 25 an analysis of the returned tenders. Let's look at</p>

Page 53	<p>1 page 9154 in the same bundle. This is for the URA. 2 Based on your assessment report, the comments and 3 proposals or recommendations therein, they have 4 completed such work. 5 Did you read through this document? Did you verify 6 this document? 7 MR CHAN YAT HO: We passed on this reply to the consultant 8 to see if the enquiries from the consultant were 9 addressed. 10 MR VICTOR DAWES: So they wrote to the URA. You gave this 11 to the consultant. Did you do anything about it? 12 MR CHAN YAT HO: We looked at it. Mr Yam or other 13 colleagues would have a look. 14 MR VICTOR DAWES: By having a look, what do you mean? Did 15 you carefully read through the letter? 16 MR CHAN YAT HO: Most our colleagues did not have an 17 engineering background. When I said "having a look", 18 say the independent consultant may put 10 questions but 19 then there were only answers to eight questions, so 20 there would be subsequent clarification because we 21 didn't want to give something that's incomplete to the 22 independent consultant. That would be pointless. 23 MR VICTOR DAWES: Will Power submitted the tenderer's 24 analysis report. Let's look at 9557, the first draft. 25 E3/9557. It's a detailed document. Next page you see</p>	Page 55
Page 54	<p>1 the table of contents, 150 pages. 2 My question for you is that -- I looked at 3 RS Surveyors' analysis. Let's look at E1-4, the 4 previous bundle, page 9140. The analysis by 5 RS Surveyors. It's brief, just a few pages. 6 Page 9145, we have the signatures and the 7 appendices. The analysis by RS Surveyors focused on 8 errors in calculation, typos, the more superficial 9 issues. Can I put it that way? 10 MR CHAN YAT HO: Can we backtrack to 2, the second one? 11 2.1.2. Or 2.1.10. 12 MR VICTOR DAWES: Can you assist us with this. When you 13 spot an error, the moment you see it, these are covered. 14 The report from RS Surveyors offers no assistance in 15 guarding against bid-rigging for building owners, so 16 that's beyond the consideration of RS Surveyors? That's 17 not what this report was meant for. 18 MR CHAN YAT HO: Mmm. 19 MR VICTOR DAWES: Let's look at the end of 2023 and then we 20 move on to the beginning of 2024. On the 28th there was 21 an EGM. It was resolved at that meeting to hire 22 Prestige. You and Mr Brian Yam attended that meeting. 23 Did you attend the entire meeting? 24 MR CHAN YAT HO: Yes. 25 MR VICTOR DAWES: Did you speak? Did anyone put questions</p>	Page 56

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<p>1 Mr Lai talked to Will Power.</p> <p>2 Based on the response from Will Power to Mr Lai,</p> <p>3 this information would be communicated to the residents</p> <p>4 at the meeting.</p> <p>5 MR VICTOR DAWES: So a few days before the meeting scheduled</p> <p>6 for 28 January, you sent a reply, on page 9446. Before</p> <p>7 Mr Yam sent that reply, he discussed the matter with</p> <p>8 you.</p> <p>9 MR CHAN YAT HO: That's correct.</p> <p>10 MR VICTOR DAWES: In the second paragraph, the URA</p> <p>11 recommends that Will Power should provide the latest</p> <p>12 information such as licensing matters and wages in</p> <p>13 arrears at the meeting. And then paragraph 3 mentions</p> <p>14 the 30-day cooling off period.</p> <p>15 You were there, Mr Yam was there at the meeting on</p> <p>16 28 January. Did anyone bring this up?</p> <p>17 MR CHAN YAT HO: As in bring up this matter?</p> <p>18 MR VICTOR DAWES: Yes.</p> <p>19 MR CHAN YAT HO: Mr Wong Hap Yin brought this up.</p> <p>20 MR VICTOR DAWES: After he brought this up, what was done</p> <p>21 about it?</p> <p>22 MR CHAN YAT HO: There was some argument. At roughly</p> <p>23 1.30 pm, Mr Yam and I arrived at the venue at the</p> <p>24 basketball court. There were five people. I wasn't</p> <p>25 sure whether they were residents. They were handing out</p>	<p>1 discuss that? There was a disciplinary record. And</p> <p>2 then it was another point about whether there was</p> <p>3 litigation records.</p> <p>4 MR CHAN YAT HO: As I remember, it was about the expiry of</p> <p>5 the licence.</p> <p>6 MR VICTOR DAWES: So, in other words, someone brought this</p> <p>7 up and, from what you can recall, there was some</p> <p>8 argument, someone was asked to leave the venue and then</p> <p>9 the meeting resumed?</p> <p>10 MR CHAN YAT HO: Correct.</p> <p>11 MR VICTOR DAWES: And because there was no Q&A -- so that's</p> <p>12 just what happened?</p> <p>13 MR CHAN YAT HO: Correct.</p> <p>14 MR VICTOR DAWES: Moving on, on 16 April 2024 an agreement</p> <p>15 was signed. Before the meeting in January you were</p> <p>16 aware of the disciplinary actions and this was not</p> <p>17 disclosed to the residents. We will need your</p> <p>18 assistance on this point. Let's look at E1-4/9450.</p> <p>19 There is a paragraph, the second paragraph, it all</p> <p>20 started at the meeting about the repairs on 28 January</p> <p>21 2024; there was voting about selecting the contractor.</p> <p>22 A majority of flat owners were also concerned. They</p> <p>23 analysed the top five contractors with the highest</p> <p>24 scores, one of them was Prestige Construction</p> <p>25 & Engineering. On the website of the Buildings</p>
Page 58	Page 60
<p>1 leaflet's, A5-sized leaflets. The leaflets, I heard</p> <p>2 from the residents that it was about Prestige. During</p> <p>3 the meeting when we discussed the matter, there was no</p> <p>4 Q&A session on that day. We checked with the management</p> <p>5 office about why the absent -- why no Q&A. Based on</p> <p>6 what the property management office told us, the</p> <p>7 consultant held a few briefing sessions and time was</p> <p>8 limited at the meeting.</p> <p>9 MR VICTOR DAWES: So let's take things one thing at a time.</p> <p>10 If I heard you right, so on that day someone brought up</p> <p>11 the matter because before the meeting someone handed out</p> <p>12 leaflets, the leaflets had to do with Prestige.</p> <p>13 MR CHAN YAT HO: Correct.</p> <p>14 MR VICTOR DAWES: And then during the meeting you said there</p> <p>15 was no Q&A session. Did anyone bring this matter up</p> <p>16 during the meeting?</p> <p>17 MR CHAN YAT HO: Yes.</p> <p>18 MR VICTOR DAWES: This matter was brought up. What next?</p> <p>19 MR CHAN YAT HO: And then as I said, Mr Wong Hap Yin</p> <p>20 explained the matter.</p> <p>21 There was no Q&A at the meeting. Some residents</p> <p>22 were not happy. Several people were asked to leave the</p> <p>23 venue by the security guards.</p> <p>24 MR VICTOR DAWES: Did anyone ask about the litigation</p> <p>25 records or conviction records of Prestige? Did anyone</p>	<p>1 Department there were records of professional</p> <p>2 misconduct.</p> <p>3 It was possible that this contractor may not have</p> <p>4 their licence renewed on 8 March 2024. Mr Brian Yam</p> <p>5 said that if the licence expired but then got awarded</p> <p>6 the contract, the worst outcome would be to start</p> <p>7 tendering again. And if there was no issue with the</p> <p>8 renewal of the licence, a contractor may make a mistake</p> <p>9 somewhere along the way and they would have their</p> <p>10 register revoked.</p> <p>11 And then two days before the meeting, the OC</p> <p>12 received a letter and someone felt that it was a serious</p> <p>13 matter. They dared not speak up at the management</p> <p>14 committee and there was WhatsApp evidence to back this</p> <p>15 up. The management office and the consultant did not</p> <p>16 raise this matter in writing or demand a reply after the</p> <p>17 meeting.</p> <p>18 Then there was a question about why this was not</p> <p>19 explained.</p> <p>20 And then the next sentence says:</p> <p>21 "The flat owners are puzzled, were in panic. We</p> <p>22 believe Smart Tender from the URA will ensure the</p> <p>23 process will happen in an impartial and fair way. How</p> <p>24 come a company wrote to the OC to canvass a vote? The</p> <p>25 letter is also misleading. Is this against the</p>

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<p>1 principle of fairness of Smart Tender?"</p> <p>2 Many issues are at play here. When using Smart</p> <p>3 Tender, the public has expectations. But as you said,</p> <p>4 that platform is not a silver bullet. We have heard</p> <p>5 your explanation.</p> <p>6 Will Power provided an analysis of contractors.</p> <p>7 There may be inaccuracies in that report. Even when</p> <p>8 this process happens through Smart Tender, you will not</p> <p>9 spot that. That's because it's not the URA's job to do</p> <p>10 that; that's for the consultant.</p> <p>11 MR CHAN YAT HO: Are you referring to the letters?</p> <p>12 MR VICTOR DAWES: No. I'm referring to the content, the</p> <p>13 substance of the complaint. If the tendering</p> <p>14 information provided, such as the analysis, contains</p> <p>15 misleading or inaccurate information, Smart Tender</p> <p>16 cannot resolve such issues.</p> <p>17 MR CHAN YAT HO: That's correct.</p> <p>18 MR VICTOR DAWES: On 15 February, Mr Brian Yam replied. On</p> <p>19 page 9448 we will see the reply. Did Mr Yam discuss</p> <p>20 this with you?</p> <p>21 MR CHAN YAT HO: Yes.</p> <p>22 MR VICTOR DAWES: Here's what Mr Yam had to say. Here it</p> <p>23 says that Prestige has a valid licence with the BD on</p> <p>24 the secret ledgers, the management company sought legal</p> <p>25 advice but then there were confidentiality requirements.</p>	<p>1 instruments, the URA make use of Smart Tender to address</p> <p>2 the tender but they will not use it to address the proxy</p> <p>3 issue.</p> <p>4 MR CHAN YAT HO: That's completely irrelevant.</p> <p>5 MR VICTOR DAWES: As to the manner of the meeting, this is</p> <p>6 not something under the purview of the URA.</p> <p>7 MR CHAN YAT HO: Correct.</p> <p>8 MR VICTOR DAWES: Let's look at the third point in the</p> <p>9 email. It says that there are 144 disciplinary or</p> <p>10 prosecution records against Prestige and these are</p> <p>11 something that the regular members of the public can</p> <p>12 look up. The contractor did not inform the residents of</p> <p>13 the Court.</p> <p>14 This accusation does not only appear in here. If</p> <p>15 you refer to page 9459, there is a follow-up. They</p> <p>16 supplied you with more information.</p> <p>17 If we go all the way to 9460, there are some</p> <p>18 hyperlinks.</p> <p>19 Let's scroll down. On 17 March you received such</p> <p>20 information. You reply on 12 April, page 9456. Mr Yam</p> <p>21 made an email reply and he discussed it with you in</p> <p>22 advance before sending the email.</p> <p>23 MR CHAN YAT HO: Correct.</p> <p>24 MR VICTOR DAWES: You said that the issues regarding the</p> <p>25 previous prosecutions or disciplinary action against</p>
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<p>1 The details cannot be disclosed until after the owners'</p> <p>2 meeting. So that's the first point.</p> <p>3 On the concern of residents about the disciplinary</p> <p>4 action against Prestige and whether Will Power misled</p> <p>5 residents about the lack of legal proceedings for</p> <p>6 Prestige, that was beyond your ability to handle so you</p> <p>7 did not address that?</p> <p>8 MR CHAN YAT HO: Correct.</p> <p>9 MR VICTOR DAWES: If Will Power's report is incomplete or,</p> <p>10 worse, misleading, the URA shouldn't think it's okay.</p> <p>11 MR CHAN YAT HO: If something is glaringly obvious in the</p> <p>12 sense that it's misleading, then we would see something</p> <p>13 is off.</p> <p>14 MR VICTOR DAWES: But there are many cases of litigation but</p> <p>15 the report says there's no litigation. Let's look at an</p> <p>16 example. This is something that you would be concerned</p> <p>17 about but you cannot handle and you would rely on the</p> <p>18 consultant.</p> <p>19 MR CHAN YAT HO: Correct.</p> <p>20 MR VICTOR DAWES: Please refer to the letter received by the</p> <p>21 URA on 17 March, page 9457, please. Here it says, at</p> <p>22 the middle of the email, the second paragraph, that on</p> <p>23 the list of authorised proxies, some residents see their</p> <p>24 name but they deny having appointed a proxy.</p> <p>25 Regarding all questions relating to proxy</p>	<p>1 contractors, the URA stress that they will not replace</p> <p>2 the role of the consultant to the project and if there</p> <p>3 is any complaints, it should be made to the consultant</p> <p>4 of the works.</p> <p>5 MR CHAN YAT HO: Correct.</p> <p>6 MR VICTOR DAWES: So regarding whether there is any</p> <p>7 misleading elements in the analysis report, that is not</p> <p>8 within the scope of investigation of URA?</p> <p>9 MR CHAN YAT HO: Correct.</p> <p>10 MR VICTOR DAWES: It seems that you did not make any</p> <p>11 proactive referrals. You said that complaints should be</p> <p>12 made to some other parties, so who should they complain</p> <p>13 to?</p> <p>14 MR CHAN YAT HO: They should complain to the Buildings</p> <p>15 Department if they have any questions regarding the</p> <p>16 consultant.</p> <p>17 MR VICTOR DAWES: Why did you not proactively refer them to</p> <p>18 the Buildings Department?</p> <p>19 MR CHAN YAT HO: We do have some communications with the</p> <p>20 Buildings Department, but there is not a formal channel</p> <p>21 where we can refer complaints. Regarding the operation</p> <p>22 Building Bright, we do have some communications with the</p> <p>23 Buildings Department. In the future, we may improve on</p> <p>24 such a matter.</p> <p>25 MR VICTOR DAWES: So there is no referral mechanism?</p>

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<p>1 MR CHAN YAT HO: Correct.</p> <p>2 MR VICTOR DAWES: So the residents will have to find ways to</p> <p>3 make the complaints?</p> <p>4 MR CHAN YAT HO: Yes. But it is not difficult for them to</p> <p>5 connect the dots and know that they have to make the</p> <p>6 complaints to the Buildings Department.</p> <p>7 I have something to add. Apart from Mr Lau, the</p> <p>8 resident of Wang Fuk Court -- starting from 28 January,</p> <p>9 we had been receiving enquiries and complaints. We</p> <p>10 received complaints from 18 such residents. Before</p> <p>11 28 January we received one complaint and after that we</p> <p>12 received 18, so altogether 19 complaints and enquiries.</p> <p>13 The Buildings Department, the Home Affairs Department,</p> <p>14 Fire Services Department, along with some other</p> <p>15 government departments, have looked at the emails.</p> <p>16 So I believe that the relevant departments were</p> <p>17 aware of the complaints.</p> <p>18 MR VICTOR DAWES: Thank you very much.</p> <p>19 Chairman, due to the scope of duties of the witness,</p> <p>20 I have some other questions and they should not probably</p> <p>21 be directed to Mr Chan. Thank you very much.</p> <p>22 THE HON MR JUSTICE DAVID LOK: Before the counsel of the URA</p> <p>23 put their questions, any other involved parties would</p> <p>24 like to put questions?</p> <p>25 Examination by MR JEFFREY TAM</p>	<p>1 suggestions made by RS Surveyors. Because of the OBB</p> <p>2 subsidy -- well, why would RS Surveyors need to comment</p> <p>3 on the draft contractor contract because of the OBB</p> <p>4 subsidy?</p> <p>5 MR CHAN YAT HO: Our consultant would make an analysis</p> <p>6 report, and that's the end of the service offered under</p> <p>7 Smart Tender. So why is this contract involved because</p> <p>8 of the OBB subsidy, that's because we need to assess the</p> <p>9 subsidy applications. If we are just talking about</p> <p>10 Smart Tender, then this report would not have existed.</p> <p>11 MR JEFFREY TAM: If RS Surveyors or consultant do not follow</p> <p>12 your suggestions, will you consider not granting the</p> <p>13 subsidy?</p> <p>14 MR CHAN YAT HO: If this is a mandatory requirement, then</p> <p>15 they have to follow them. Basically we will go back and</p> <p>16 forth with the consultant.</p> <p>17 MR JEFFREY TAM: To be fair, let me show you some of the</p> <p>18 emails that follow. Please go to page 9308, the</p> <p>19 suggestions were given to Will Power, and then on</p> <p>20 page 9307 there is a reply. Please scroll down. This</p> <p>21 is a reply.</p> <p>22 Page 9306, it says that there is no other</p> <p>23 suggestions. What follows -- well, please scroll up.</p> <p>24 Item 1.0, item 1.1, reply, page 9305 are also about</p> <p>25 item 1.2, 1.1.</p>
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<p>1 MR JEFFREY TAM: Thank you, chairman.</p> <p>2 Mr Chan, I represent some of the residents, that</p> <p>3 include Mr Lee, Mr Yip and Mr Kong. I have some</p> <p>4 questions.</p> <p>5 Please refer to your witness statement paragraph 64.</p> <p>6 That's page 2232. Here it says that on 7 February 2024</p> <p>7 the OC of Wang Fuk Court sent a draft contractor</p> <p>8 contract to the URA for RS Surveyors to review and</p> <p>9 comment. So RS Surveyors did assess and provide</p> <p>10 comments; right?</p> <p>11 MR CHAN YAT HO: Yes.</p> <p>12 MR JEFFREY TAM: That's because -- that's for the OBB</p> <p>13 subsidy?</p> <p>14 MR CHAN YAT HO: Right.</p> <p>15 MR JEFFREY TAM: So Wang Fuk Court did take part in the OBB?</p> <p>16 MR CHAN YAT HO: Yes, in 2023.</p> <p>17 MR JEFFREY TAM: It's still included in the OBB.</p> <p>18 MR CHAN YAT HO: It's still on the list.</p> <p>19 MR JEFFREY TAM: Now I'd like to refer you to E1-4/9301 to</p> <p>20 9302. This is from Mr Yam, but this appears in your</p> <p>21 witness statement. This is written to Chairman Tang.</p> <p>22 There are some emails and you made the relevant</p> <p>23 suggestions to Will Power; right?</p> <p>24 MR CHAN YAT HO: Correct.</p> <p>25 MR JEFFREY TAM: Please refer to page 9302. There are some</p>	<p>1 I'd like to refer you to page 9302. There are some</p> <p>2 items that Will Power need to follow up on?</p> <p>3 MR CHAN YAT HO: Yes.</p> <p>4 MR JEFFREY TAM: Say, for example, 2.1.2, if the draft</p> <p>5 contractor contract does not include the declaration of</p> <p>6 ethical commitment or declaration of integrity and</p> <p>7 anti-collusion clauses, the consultant must follow up on</p> <p>8 it, and anti-collusion tendering certificates was not</p> <p>9 also included.</p> <p>10 MR CHAN YAT HO: Because we ask all these documents to be</p> <p>11 included in the contract.</p> <p>12 MR JEFFREY TAM: We are talking about what happened in 2024</p> <p>13 and there are some documents dated 2018, 2020 which have</p> <p>14 been signed during the tendering process. If you look</p> <p>15 at the signed contract, these three documents were not</p> <p>16 included. Were you aware of that?</p> <p>17 MR CHAN YAT HO: Regarding the works contract, the three</p> <p>18 documents should have been included. I've seen it.</p> <p>19 MR JEFFREY TAM: Let's look at the table of contents first</p> <p>20 because it consists of over 100 pages. Page 9311,</p> <p>21 that's the table of contents. In which part would the</p> <p>22 three documents be included?</p> <p>23 MR CHAN YAT HO: Agreement clauses or additional clauses or</p> <p>24 other information.</p> <p>25 MR JEFFREY TAM: Understood. We can read the document</p>

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<p>1 again.</p> <p>2 Now going back to page 9302, 2.1.10. There is</p> <p>3 a suggestion. As the works contract have included the</p> <p>4 third part, that is the minor works contract and the</p> <p>5 clauses, and the fourth part, agreement clauses, in</p> <p>6 order to avoid confusion, the consultant needs to review</p> <p>7 it and choose to either adopt part 3 or part 4. Let's</p> <p>8 look at page 9311. It seems that both part 3 and part 4</p> <p>9 exist in the agreement. So part 3, standard contract</p> <p>10 and agreement clauses; part 4, agreement clauses.</p> <p>11 So it seems that Will Power did not follow your</p> <p>12 instructions.</p> <p>13 MR CHAN YAT HO: I stressed just now that the suggestions on</p> <p>14 the report are not compulsory. The consultant would</p> <p>15 have reasonable excuse as to why they don't follow our</p> <p>16 suggestions, but some of our suggestions are compulsory</p> <p>17 and we state it very clearly in the report and we ask</p> <p>18 them to revise the contract to the satisfaction of the</p> <p>19 independent consultant.</p> <p>20 So in the reports we are going to have suggestions,</p> <p>21 recommendations. It does not mean that the consultant</p> <p>22 need to follow everything.</p> <p>23 MR JEFFREY TAM: So if they are just recommendations or</p> <p>24 suggestions, they don't have to follow?</p> <p>25 MR CHAN YAT HO: But they can explain to us why they don't</p>	<p>1 There was a meeting on 14 April 2025. You met with the</p> <p>2 OC and Mr Lee, the resident, Mr Kong and Mr Yip. These</p> <p>3 are the three residents you met with. Would you agree</p> <p>4 with this: you did receive some written notes from</p> <p>5 Mr Lee?</p> <p>6 MR CHAN YAT HO: Yes.</p> <p>7 MR JEFFREY TAM: Regarding the agreement clauses in your</p> <p>8 second witness statement, you did come across or</p> <p>9 identify some problems?</p> <p>10 MR CHAN YAT HO: Can you go to my statement?</p> <p>11 MR JEFFREY TAM: Yes. Page 2236, paragraph 15(c). You said</p> <p>12 that you did raise some questions.</p> <p>13 MR CHAN YAT HO: Some of them were personal remarks, so I</p> <p>14 could not reply to (a)/(b). (c) was about questions on</p> <p>15 interpretation of clauses and consultant need to be</p> <p>16 asked. We cannot replace or take up the role of</p> <p>17 a consultant. You may show the reply of ours.</p> <p>18 Regarding the three questions, we asked them to consult</p> <p>19 the consultant. Because of our backgrounds or our terms</p> <p>20 of reference, we are not able to answer him.</p> <p>21 MR JEFFREY TAM: Let's take the example of E2/9525. One of</p> <p>22 the questions is about whether the OC have the right to</p> <p>23 delete or amend some works item. These questions,</p> <p>24 regardless of whether or not they are complaints,</p> <p>25 according to you, should not be addressed by the URA.</p>
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<p>1 follow our suggestions. As Mr Dawes showed, Will Power</p> <p>2 did have a cover letter explaining why they did not</p> <p>3 follow some of the suggestions.</p> <p>4 MR JEFFREY TAM: This is what happened on 10 April, and on</p> <p>5 16 April the agreement was signed. After that, would</p> <p>6 you follow on the clauses of the agreement because of</p> <p>7 the subsidy scheme?</p> <p>8 MR CHAN YAT HO: If it's signed, then we will not follow up</p> <p>9 on it and we will be given a copy of the agreement.</p> <p>10 MR JEFFREY TAM: Why did you not follow up on the contract?</p> <p>11 MR CHAN YAT HO: Because there is subsidy application. If</p> <p>12 the consultant is not confirmed, then we will not issue</p> <p>13 a report to the OC, seeing that the consultant has</p> <p>14 assessed the relevant contract.</p> <p>15 MR JEFFREY TAM: In other words, you rely on the consultant</p> <p>16 as to whether the suggestions are to be followed?</p> <p>17 MR CHAN YAT HO: Yes, because they are just the suggestions.</p> <p>18 If the URA does not accept the explanation as to why</p> <p>19 some of the recommendations are not complied with,</p> <p>20 I will ask them to further clarify. I've done this for</p> <p>21 other cases but not with Wang Fuk Court.</p> <p>22 MR JEFFREY TAM: And you will seek further clarifications?</p> <p>23 MR CHAN YAT HO: That's correct. That's why I said we went</p> <p>24 back and forth with some of the other cases.</p> <p>25 MR JEFFREY TAM: Let me quickly go through with you this.</p>	<p>1 MR CHAN YAT HO: Yes, that's correct. Because that's about</p> <p>2 interpretation of tenders, about some of the</p> <p>3 definitions. It's the building contractor's</p> <p>4 responsibility to interpret them.</p> <p>5 MR JEFFREY TAM: As the OBB subsidy was ongoing, why the URA</p> <p>6 had no role to play regarding the clauses of the</p> <p>7 agreement?</p> <p>8 MR CHAN YAT HO: Because, as I said, when the contract was</p> <p>9 drafted, the independent consultant did look at the</p> <p>10 contract during the tendering process. And when the AGM</p> <p>11 was convened, when the contract was signed, the URA has</p> <p>12 no further role to play and we don't have the</p> <p>13 professional knowledge to further assess the tenders.</p> <p>14 And our terms of reference does not include the referral</p> <p>15 of questions to consultant.</p> <p>16 MR JEFFREY TAM: I have no further questions.</p> <p>17 THE HON MR JUSTICE DAVID LOK: Mr Mike Lui.</p> <p>18 Examination by MR MIKE LUI</p> <p>19 MR MIKE LUI: Thank you.</p> <p>20 E-3/9560. Mr Chan, just now Mr Dawes took you</p> <p>21 through these documents and asked you some questions.</p> <p>22 There are a total of 57 bids. Let's take a look at</p> <p>23 page 9560, 9561, 9562. You can see a total of 57 bids</p> <p>24 or tenders.</p> <p>25 Mr Dawes' question was the URA had received such</p>

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1 information, and afterwards did the URA check any
 2 association among these companies in public information.
 3 Based on our information we have, there is association
 4 among these companies. And you said this would be
 5 followed up on by consultants to scrutinise such
 6 information. I'd like you to read the witness statement
 7 of another witness from the URA, Mr Wong. I'd like to
 8 give you some figures. WS18/2208. Please zoom in.
 9 Paragraph 67.
 10 From 2018 to 2024, six financial years, the
 11 unfinished cases or the outstanding cases handled by the
 12 URA, outstanding cases or the cases being handled, based
 13 on your experience, how many bids were received?
 14 MR CHAN YAT HO: Every year on average, consultant and
 15 contractors, over 10,000 bids. Over 10,000. Every year
 16 we handled cases in phases. So there were fluctuations
 17 in a number of cases. Sometimes 10,000, 15,000.
 18 MR MIKE LUI: Do you have any exact figure?
 19 MR CHAN YAT HO: After I had taken stock, between 15,000 and
 20 17,000 bids.
 21 MR MIKE LUI: Based on your understanding or based on the
 22 practice of the URA, is it possible to check all the
 23 public information relating to 15,000 bids?
 24 MR CHAN YAT HO: Well, let's not talk about the figure
 25 first. It's not possible to do so because we don't have

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1 the function to do so. So in the design of Smart
 2 Tender, that is the case, not to speak on this number.
 3 I'm not sure how much time it would take for us to go
 4 through over 10,000 bids every year.
 5 MR MIKE LUI: My second question, and I will be quick. Just
 6 now we went over the complaint of a resident. E1-4,
 7 page 9457. You remember this complaint. Just now
 8 Mr Dawes took you through this complaint, a complaint
 9 made on 17 March by a resident. Paragraph 3 at the
 10 bottom of the document, you were shown this part. Just
 11 now Mr Dawes took you through your reply as well on
 12 page 9456. In a reply made by Mr Yam -- before this
 13 reply was sent, you had discussed with Mr Yam?
 14 MR CHAN YAT HO: Yes.
 15 MR MIKE LUI: The URA replied to points 2 and 3 as follows.
 16 Let's take a look at the third paragraph:
 17 "In addition, regarding any previous prosecution or
 18 disciplinary sanctions on the part of contractor and/or
 19 staff members, the URA does not replace the role of the
 20 consultant. If you have any views on service quality,
 21 you are welcome to raise this to the department."
 22 Just now we were on the point of whether there were
 23 any referrals, which shocked the audience. Let's talk
 24 about another point. Page 9457. Please refer to this
 25 page. This was sent to the BD, the Director of Lands,

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1 the HAD. I'd like to jog your memory about this.
 2 It is not the case that this case had come to
 3 nothing or was not handled. This reply was sent to the
 4 relevant departments as well. In different situations,
 5 how does the URA put different cases into different
 6 categories and handle them?
 7 MR CHAN YAT HO: There are a total of three main types. The
 8 complainant filed the complaint directly with the URA.
 9 Whether it is our function or not, we would directly
 10 reply to the complainant. If the complainant makes a
 11 complaint to another department but copies the complaint
 12 to us, we will check whether the contents have to do
 13 with the URA. It might be the case that they sent the
 14 complaint to us by mistake. So if it is within our
 15 purview, we would reply as well.
 16 Regarding the third type, if the complaint is sent
 17 to other departments but cced to us and if the contents
 18 aren't within our purview, we would not reply. We would
 19 not reply to any complaint that doesn't have to do with
 20 us.
 21 Type 1, if it is sent to us, whether it is related
 22 to us or not, we will reply. Type 2, if it is sent to
 23 other department but cced to us, if the contents are
 24 within the purview of the URA, we would reply. Type 3,
 25 if it is sent to other departments and cced to us, if

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1 the contents are not related to the URA, we would not
 2 reply.
 3 THE HON MR JUSTICE DAVID LOK: You are making it so
 4 complicated. If the complaint is only directed to you,
 5 to the URA, then tell us, would you reply? Would you
 6 refer the complaint? You said that there was no
 7 referral mechanism. Would you reply or not if it is
 8 just sent to you?
 9 MR CHAN YAT HO: Yes.
 10 THE HON MR JUSTICE DAVID LOK: Then you would tell them
 11 "You could go to other departments".
 12 I believe you agree with us, at this stage you are
 13 not a government department and there is no referral
 14 mechanism.
 15 MR MIKE LUI: I have no further questions.
 16 THE HON MR JUSTICE DAVID LOK: Any re-examination?
 17 MR VICTOR DAWES: Some re-examination.
 18 Re-examination by Mr VICTOR DAWES
 19 MR VICTOR DAWES: Based on your understanding, in Hong Kong,
 20 among buildings receiving MBIS orders, I believe most
 21 housing estates would use Smart Tender to conduct
 22 building repairs. Can you tell us whether you have any
 23 figures, say per 10,000 MBIS orders, how many were
 24 conducted through Smart Tender?
 25 MR CHAN YAT HO: I cannot give you a reply off the top of my

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<p>1 head.</p> <p>2 MR VICTOR DAWES: But most of the cases?</p> <p>3 MR CHAN YAT HO: No.</p> <p>4 MR VICTOR DAWES: If one wants to use OBB subsidy, does one</p> <p>5 need to join Smart Tender?</p> <p>6 MR CHAN YAT HO: Well, OBB, yes. One must use Smart Tender.</p> <p>7 That is, if one has not engaged any contractor or</p> <p>8 consultant, well, at the time of participation, if one</p> <p>9 has already engaged both a contractor and a consultant,</p> <p>10 in accordance with Cap 344 Building Management</p> <p>11 Ordinance, we would call them early bird cases. We</p> <p>12 don't want to have any delay in the works.</p> <p>13 MR VICTOR DAWES: That is, it depends on the stages. If one</p> <p>14 can still use Smart Tender, then one needs to; is that</p> <p>15 correct?</p> <p>16 MR CHAN YAT HO: Yes, it's mandatory. Otherwise they would</p> <p>17 not be able to get the OBB subsidy.</p> <p>18 MR VICTOR DAWES: I understand you have a large volume of</p> <p>19 work owing to resources. You explain every year you had</p> <p>20 over 10,000 cases, RI plus RC. RI and RC. How many</p> <p>21 registered RI and RC?</p> <p>22 MR CHAN YAT HO: On the list of the BD, in our platform, it</p> <p>23 might not be the full list.</p> <p>24 MR VICTOR DAWES: So in the platform, fewer. At the end of</p> <p>25 2025, RI, 632, and RC, 827. So in your platform fewer</p>	<p>1 MR YAM LAP YIN: In April 2023.</p> <p>2 MR VICTOR DAWES: When did you start working on the</p> <p>3 tendering of Wang Fuk Court?</p> <p>4 MR YAM LAP YIN: Around 2018.</p> <p>5 MR VICTOR DAWES: And your boss is Mr Chan Yat Ho, Matthew,</p> <p>6 who gave evidence this morning. I have a few simple</p> <p>7 questions for you.</p> <p>8 Mr Chan joined the URA after you, so for some</p> <p>9 earlier work you were working on that. Back in 2018 to</p> <p>10 January 2019, Wang Fuk Court engaged a registered</p> <p>11 inspector. In the end, Will Power was appointed.</p> <p>12 Mr Chan wasn't with the URA yet, so for that part of the</p> <p>13 process, you worked on that?</p> <p>14 MR YAM LAP YIN: Yes.</p> <p>15 MR VICTOR DAWES: In terms of the engagement of the RI, the</p> <p>16 tenders returned, the URA gave assistance. There was an</p> <p>17 analysis, a summary of the returned tender price.</p> <p>18 E1-1/1508. Did you prepare this?</p> <p>19 MR YAM LAP YIN: Yes.</p> <p>20 MR VICTOR DAWES: I have a similar question for you as the</p> <p>21 one I put to Mr Chan this morning. When you prepared</p> <p>22 this table, did you look out for any abnormality in the</p> <p>23 details and did you note the abnormalities?</p> <p>24 MR YAM LAP YIN: We do. In this case, for Will Power we</p> <p>25 noted AP(A). There was supposed to be a certificate</p>
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<p>1 than these figures; is that correct?</p> <p>2 MR CHAN YAT HO: Correct.</p> <p>3 MR VICTOR DAWES: I have no further questions.</p> <p>4 THE HON MR JUSTICE DAVID LOK: Thank you very much. You</p> <p>5 have finished giving evidence.</p> <p>6 (The witness was released)</p> <p>7 (12.50 pm)</p> <p>8 THE HON MR JUSTICE DAVID LOK: Let's continue in the</p> <p>9 afternoon.</p> <p>10 (12.50 pm)</p> <p>11 (The luncheon adjournment)</p> <p>12 (2.15 pm)</p> <p>13 MR VICTOR DAWES: Chairman, the next witness is Mr Yam Lap</p> <p>14 Yin, Brian.</p> <p>15 Mr Yam, good afternoon. Thank you for attending the</p> <p>16 hearing today. Please rise and read out the declaration</p> <p>17 before you.</p> <p>18 (2.15 pm)</p> <p>19 MR YAM, BRIAN (affirmed)</p> <p>20 Examination by MR VICTOR DAWES</p> <p>21 MR VICTOR DAWES: You submitted one witness statement and</p> <p>22 that's in WS18/2239. I believe you can confirm the</p> <p>23 content therein is accurate?</p> <p>24 MR YAM LAP YIN: Yes, I can.</p> <p>25 MR VICTOR DAWES: Can you tell us when you joined the URA?</p>	<p>1 about the RI but Will Power submitted a certificate for</p> <p>2 an AP instead, so we highlighted this point to alert the</p> <p>3 OC that what was submitted wasn't what we were asking</p> <p>4 for. So the OC had to look out for this. And when they</p> <p>5 interviewed Will Power, they had to raise the matter and</p> <p>6 check with Will Power.</p> <p>7 MR VICTOR DAWES: So we look right, further to the right, so</p> <p>8 this is what you said here.</p> <p>9 MR CHAN YAT HO: Yes.</p> <p>10 MR VICTOR DAWES: So am I right to say that, simply put, you</p> <p>11 don't really worry about the tender prices?</p> <p>12 MR YAM LAP YIN: We cannot intervene.</p> <p>13 MR VICTOR DAWES: It's not about whether you intervene, it's</p> <p>14 about whether you pay attention.</p> <p>15 MR YAM LAP YIN: We don't.</p> <p>16 MR VICTOR DAWES: That means in your work you provide</p> <p>17 a table for ease of reference, you check whether all the</p> <p>18 documents are there, and this table serves no other</p> <p>19 purposes?</p> <p>20 MR YAM LAP YIN: I want to supplement what Mr Chan said this</p> <p>21 morning. This table isn't just about information for</p> <p>22 the owners to figure things out themselves. We also</p> <p>23 explained to the owners, so we ranked the tender in</p> <p>24 descending order based on the price. We also told the</p> <p>25 owners about paying attention to the size of the housing</p>

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<p>1 estate. Some contractors said they would need 80 days, 2 but in the cheapest cases it's just three days. So the 3 owners would have to be mindful of the number of days 4 required and the prices. They would have to think about 5 whether these contractors could help them with 6 coordinating the future repairs. So they had to look 7 out for the excessively cheap prices. 8 MR VICTOR DAWES: What were your worries? Some tenderers 9 include only very few days and very little manpower in 10 their tenders. 11 MR CHAN YAT HO: We told the owners that they need to be 12 mindful of the price quoted by the contractors. If it's 13 too cheap, then the works may not be able to be 14 completed. 15 Say, for example, when you go for grocery shopping 16 at a public wet market, some people are able to buy the 17 same groceries more expensively; some may be able to 18 procure the groceries at a lower price and that will 19 sometimes depend on the quality. 20 MR VICTOR DAWES: So that's the criteria or factors that you 21 remind them of but it seems that bid-rigging matters 22 would not be brought up when you prepared this summary 23 and explained it to them. 24 MR YAM LAP YIN: Correct. 25 MR VICTOR DAWES: E1-1/1535. There is a letter.</p>	<p>1 the annual general meeting. 67.5 per cent of the 2 residents voted to appoint Will Power to become the RI. 3 According to what Mr Chan said, URA at this stage did 4 not offer the Smart Tender services. They provided 5 limited assistance to the OC. So Smart Tender was not 6 used, you attended the owners' meeting. Why was that? 7 Is it because they applied for the subsidy? 8 MR YAM LAP YIN: As mentioned by Mr Chan, in 2016 they 9 participated in the MBIS and later on they applied to 10 participate in the Smart Tender. As they are one of the 11 cases under Smart Tender, so we felt obligated to attend 12 one of their owners' meetings. Some residents may have 13 questions and we tried to answer their questions from 14 the perspective of subsidy. 15 MR VICTOR DAWES: So you were there to handle questions 16 regarding the subsidy? 17 MR YAM LAP YIN: Correct. 18 MR VICTOR DAWES: Now going back to the minutes, E1-1514. 19 At the bottom of the page we see that you spoke in the 20 meeting. 21 Paragraph 6: 22 "Mr Yam from the URA shared information about the 23 MBIS." 24 Paragraph 2, it says that: 25 "RI need to obtain licence and they have to sign a</p>
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<p>1 Will Power, on 22 September 2018, they wrote to the OC 2 saying that the original service fee was \$240,000. Due 3 to various reasons they need to fulfil social 4 responsibilities and having regard to the affordability 5 of the owners they provided some discounts and lowered 6 the price to \$222,000. When you compiled the summary, 7 you adopted the price of \$222,000, so were you aware of 8 this letter when you compiled the summary? 9 MR YAM LAP YIN: I don't remember. 10 MR VICTOR DAWES: One of the tenderers lowering the price 11 after submitting tender, is this normal? 12 MR YAM LAP YIN: I've heard from OC saying that this 13 happened. 14 MR VICTOR DAWES: But you didn't know why they lowered the 15 price all of a sudden? 16 MR YAM LAP YIN: We didn't look into it and we didn't ask 17 the OC why that is. 18 MR VICTOR DAWES: According to paragraph 8 of your witness 19 statement, you attended four Wang Fuk Court meetings on 20 behalf of the URA. 21 MR YAM LAP YIN: Right. 22 MR VICTOR DAWES: Started from 2019, the OGM, and all the 23 way to 28 January, the EGM of Wang Fuk Court. 24 MR YAM LAP YIN: Yes. 25 MR VICTOR DAWES: Let's look at the meeting at 2019, that's</p>	<p>1 report, they have to be held liable for the inspection 2 works and they have to reflect the conditions of the 3 structures of the building and they can only confirm 4 whether renovations is needed after actual inspections 5 is conducted. And the templates for the tenders have 6 including ICAC's guidelines, asking the tenderers to 7 sign declarations so they must be held legally liable. 8 The URA, independent consultant, will look at the 9 inspection report and provide advice on the tender 10 documents." 11 I believe that you explained this to them? 12 MR YAM LAP YIN: Correct. 13 MR VICTOR DAWES: Before appointing RI, paragraph 11 of your 14 witness statement said that you have to leave the 15 meeting. Why was that? 16 MR YAM LAP YIN: That's the rules of our company. Sometimes 17 the OC will discuss about the tenders, so it may not be 18 that appropriate for us to be in the room when the 19 discussion of that was going on. 20 MR VICTOR DAWES: You said that that's a rule of your 21 company. Why did you leave the room when you were 22 discussing about the consultant tenderers? 23 MR YAM LAP YIN: There are owners who asked the URA to offer 24 them advice during the meeting. We took time to explain 25 to them why we couldn't help them in selecting the RI or</p>

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<p>1 consultants.</p> <p>2 MR VICTOR DAWES: Why couldn't you explain that in the</p> <p>3 meeting?</p> <p>4 MR YAM LAP YIN: Well, we did talk to the OC before the</p> <p>5 meeting started. We told them what the role of the URA</p> <p>6 was and that's why we left the meeting.</p> <p>7 MR VICTOR DAWES: You said that that's the rules of URA and</p> <p>8 you were just complying.</p> <p>9 MR YAM LAP YIN: Yes.</p> <p>10 MR VICTOR DAWES: Let's look at an email dated 16 August</p> <p>11 2024. E3/9826 to page 9829, there is an email from</p> <p>12 Mr Lee, and on the top left-hand corner it says Mr Yam.</p> <p>13 Mr Lee offered you a detailed analysis, that's based on</p> <p>14 the TAR of Will Power, that is the contractor analysis</p> <p>15 report. It says the background of six of the companies.</p> <p>16 As you can see, as long as contractors provide MPF</p> <p>17 documents, they will be able to obtain eight marks.</p> <p>18 Please scroll down. Point 5. Let's scroll up a</p> <p>19 little bit. Further up. Here. Please read this.</p> <p>20 MR YAM LAP YIN: I'm done.</p> <p>21 MR VICTOR DAWES: You remember this email?</p> <p>22 MR YAM LAP YIN: Yes.</p> <p>23 MR VICTOR DAWES: You handled it?</p> <p>24 MR YAM LAP YIN: Correct.</p> <p>25 MR VICTOR DAWES: You said that as long as they meet six</p>	<p>1 we look at the assessment criteria we will only look at</p> <p>2 whether there is any conflict with the subsidy scheme</p> <p>3 and we're not going to provide further advice on some of</p> <p>4 the other content. If there are any questions regarding</p> <p>5 the assessment criteria, please consult the construction</p> <p>6 consultant of Wang Fuk Court."</p> <p>7 So that's your stance.</p> <p>8 MR YAM LAP YIN: Right.</p> <p>9 MR VICTOR DAWES: So Mr Lee wrote to you saying that there</p> <p>10 could be something unreasonable about the assessment</p> <p>11 criteria and you never criticised or commented on any</p> <p>12 criteria?</p> <p>13 MR YAM LAP YIN: Correct.</p> <p>14 MR VICTOR DAWES: Your suggestion is that they should</p> <p>15 enquire the consultant of the works?</p> <p>16 MR YAM LAP YIN: Right.</p> <p>17 MR VICTOR DAWES: There are residents who say that</p> <p>18 Will Power have been colluding with the OC. You asked</p> <p>19 them to consult the consultant.</p> <p>20 MR YAM LAP YIN: Will Power does have the professional</p> <p>21 responsibilities to make explanations to the residents.</p> <p>22 We are limited by our terms of reference. For projects</p> <p>23 that meet the requirements under the subsidy scheme, we</p> <p>24 allow them to proceed. But regarding the integrity or</p> <p>25 conduct of the inspector, we ask them to make complaints</p>
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<p>1 criteria, they get full marks. It is said that</p> <p>2 \$100 million is involved for the management of an estate</p> <p>3 with eight blocks.</p> <p>4 At page 9829, this is what they said:</p> <p>5 "Based on the conclusion, this shows that the</p> <p>6 criteria that lacks credibility show that the ranking is</p> <p>7 heavily twisted. Some people with ill intent want to</p> <p>8 help their friends and that was easy and that's how they</p> <p>9 win at the starting line."</p> <p>10 They said that this is unfair and unreasonable and</p> <p>11 this unreasonable, unfair TAR have not been brought up</p> <p>12 to the OC. Let's look at page 9825. It says:</p> <p>13 "According to the requirements under the Smart</p> <p>14 Tender, the assessment criteria is not one of the</p> <p>15 mandatory requirements. If the OC wants to adopt the</p> <p>16 assessment criteria, they must be passed through</p> <p>17 resolutions at a residents' meeting or OC meeting and</p> <p>18 the document has to be submitted to the URA."</p> <p>19 And it is said that:</p> <p>20 "As the assessment criteria was determined based on</p> <p>21 what was necessary for the works and from the</p> <p>22 construction consultant, as the criteria will affect the</p> <p>23 competitiveness of the contractors, the URA, under the</p> <p>24 Prevention of Bribery Ordinance, will not affect owners</p> <p>25 in selecting AP/RI, consultant or contractors. So when</p>	<p>1 with the government or the consultant.</p> <p>2 MR VICTOR DAWES: You said that you were wary of the</p> <p>3 Prevention of Bribery Ordinance. What does it have to</p> <p>4 do with this?</p> <p>5 MR YAM LAP YIN: I don't remember why this was written.</p> <p>6 MR VICTOR DAWES: I don't understand why you put the</p> <p>7 ordinance there either. If you only consider whether</p> <p>8 the TAR is reasonable or not, I don't think that the</p> <p>9 Prevention of Bribery Ordinance should be involved. Can</p> <p>10 you answer this question?</p> <p>11 MR YAM LAP YIN: I can't.</p> <p>12 MR VICTOR DAWES: Why do you think that this ordinance is</p> <p>13 relevant?</p> <p>14 MR YAM LAP YIN: Perhaps it has to do with comparison of</p> <p>15 scoring. If the scoring is not reasonable, then the URA</p> <p>16 would find it not ideal.</p> <p>17 MR VICTOR DAWES: Is this a kind of standard reply of yours</p> <p>18 or did you write this yourself?</p> <p>19 MR YAM LAP YIN: Not necessarily. We look at it on a</p> <p>20 case-by-case basis. This is not a standard reply of the</p> <p>21 URA.</p> <p>22 MR VICTOR DAWES: Mr Lee was worried about contractors</p> <p>23 colluding with the consultant and now you ask them to</p> <p>24 make enquiries of the consultant. Do you think this is</p> <p>25 problematic, looking back at it today?</p>

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<p>1 MR YAM LAP YIN: Well, we act as staff members of the URA, 2 so that's why I asked them to consult the consultant as 3 to why the scoring was like that. 4 MR VICTOR DAWES: I understand. Thank you. 5 THE HON MR JUSTICE DAVID LOK: Any other involved parties 6 would like to put questions? 7 Mr Lui? 8 MR MIKE LUI: No questions. 9 THE HON MR JUSTICE DAVID LOK: Mr Yam, that's the end of 10 your testimony. 11 (The witness was released) 12 (2.34 pm) 13 MR VICTOR DAWES: The next witness is Mr Wong Se King, 14 Peter. 15 Mr Wong, you are already holding the declaration. 16 (2.34 pm) 17 MR WONG SE KING, PETER (affirmed) 18 Examination by MR VICTOR DAWES 19 MR VICTOR DAWES: Thank you very much. Please be seated. 20 Mr Wong, you have been working at URA for 20 years? 21 MR WONG SE KING: Approximately 17 years. 22 MR VICTOR DAWES: In 2023 you became the general manager 23 (building rehabilitation)? 24 MR WONG SE KING: In 2023 I became the director. 25 MR VICTOR DAWES: One of your duties is to manage the Smart</p>	<p>1 OC and the bidders; second, tender documents 2 manipulation such as setting unreasonable criteria and 3 tender documents to filter out non-colluding bidders; 4 third, bid suppression; fourth, tenders return or 5 opening manipulation; fifth, tenders analysis 6 manipulation. So OCs may collude with bidders to 7 manipulate the tender analysis? 8 MR WONG SE KING: Correct. 9 MR VICTOR DAWES: I believe that this did not appear in 10 2015. It has always been a problem, that's why Smart 11 Tender was launched. Am I correct in saying this? 12 MR WONG SE KING: Can I give you some background? 13 MR VICTOR DAWES: Please. 14 MR WONG SE KING: Smart Tender was launched in 2016. In 15 2015 -- I'm sure that you remember the Garden Vista 16 case. Let me talk about the building rehabilitation 17 situation in Hong Kong. At that time there were 20,000 18 buildings aged over 30, they include composite 19 buildings. 80 per cent of them meet the subsidy scheme 20 for government regarding rates because we use the 21 rateable value to assess whether the OC is eligible for 22 the government or Housing Society subsidy scheme. 23 MR VICTOR DAWES: What about the remaining 20 per cent? 24 MR WONG SE KING: Basically no one helped them out. That's 25 why we had the bid-rigging case with Garden Vista.</p>
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<p>1 Tender electronic platform of the URA? 2 MR WONG SE KING: Correct. 3 MR VICTOR DAWES: You gave us a witness statement. That's 4 at page 408. Chinese version, WS18/2208. You can 5 confirm the content is true? 6 MR WONG SE KING: Yes. 7 MR VICTOR DAWES: Paragraph 13 of your statement, you 8 clearly stated that in 2016 the URA established Smart 9 Tender to reduce the exposure of building owners and OCs 10 to bid-rigging. That's accurate? 11 MR WONG SE KING: Correct. 12 MR VICTOR DAWES: Did you start working on Smart Tender 13 since 2016? 14 MR WONG SE KING: Yes. I started in mid-2015 because we 15 launched it in 2016 and we needed time to prepare it. 16 MR VICTOR DAWES: Yes. Let's look at paragraph 11 then. 17 You comprehensively stated the background of Smart 18 Tender. URA observed that ill-intended parties in the 19 past and currently made use of the requirement to 20 conduct massive building repair and maintenance works to 21 take advantage of building owners. They acted unfairly 22 or illegally, such as undue interference, collusion, 23 manipulation and, most seriously, bid-rigging. 24 You listed out five forms of misconduct. First, 25 internal collusion between the members of the MC of the</p>	<p>1 Because of that, in mid-2015, the government asked 2 the URA to come up with a plan or something to help 3 residents. Smart Tender used to be a pilot scheme. We 4 targeted to provide assistance to some 50-odd buildings 5 to reduce bid-rigging risks. 6 So how do we reduce the risk? I've set out a list 7 of misconduct and we are to propose measures to cope 8 with the misconduct. We worked with the ICAC and the 9 Competition Commission before Smart Tender was launched 10 to look into how we can prevent internal collusion, 11 tender documents manipulation, so on and so forth. We 12 listened to their views and looked into how we can roll 13 out measures to cater to the issues. 14 MR VICTOR DAWES: We can see that did you work with other 15 organisations. This morning we read a report from the 16 Competition Commission that was prepared in May 2016. 17 Bid-rigging cases with criminal elements were referred 18 to the police and the ICAC I believe more than once. 19 MR WONG SE KING: Correct. Together with the Competition 20 Commission and the ICAC, we exchange information on 21 a regular basis. Every six months we submit the return 22 tender information to the ICAC. Before the Wang Fuk 23 Court incident, some tender reports were provided to 24 them. On a regular basis, at the request of the ICAC 25 and the Competition Commission, tender reports or tender</p>

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<p>1 records were provided to them for analyses.</p> <p>2 MR VICTOR DAWES: I'd like to see if you can help us. As</p> <p>3 you have been engaged in this area for a long time, you</p> <p>4 may know that the Competition Commission provided</p> <p>5 a submission to the IC. Indeed, building rehabilitation</p> <p>6 market in Hong Kong has long been exposed to</p> <p>7 anti-competition behaviour and a lot of contractors and</p> <p>8 consultants are involved.</p> <p>9 MR WONG SE KING: Yes.</p> <p>10 MR VICTOR DAWES: Serious anti-competition behaviour</p> <p>11 involves a lot of contractors. It involves many</p> <p>12 contractors and I believe you know this.</p> <p>13 MR WONG SE KING: Well, how many is many? I'm not in</p> <p>14 a position to comment.</p> <p>15 MR VICTOR DAWES: But you have heard of this; is that</p> <p>16 correct?</p> <p>17 MR WONG SE KING: Yes.</p> <p>18 MR VICTOR DAWES: And this is in line with your</p> <p>19 understanding as you have referred cases to the ICAC and</p> <p>20 the Competition Commission.</p> <p>21 MR WONG SE KING: Yes, on a regular basis. Unless the ICAC</p> <p>22 requests information regarding particular buildings,</p> <p>23 otherwise we provide information on a regular basis to</p> <p>24 the ICAC.</p> <p>25 MR VICTOR DAWES: Regarding anti-bid-rigging, the URA has</p>	<p>1 MR VICTOR DAWES: In 2018 Wang Fuk Court applied to sign up</p> <p>2 for Smart Tender. Smart Tender services include -- in</p> <p>3 2023, but it didn't include 2019 about the selection of</p> <p>4 RI for inspection.</p> <p>5 MR WONG SE KING: Right.</p> <p>6 MR VICTOR DAWES: It doesn't include 2021 when they engaged</p> <p>7 a consultant.</p> <p>8 MR WONG SE KING: Right.</p> <p>9 MR VICTOR DAWES: In June 2019 the scope of service was</p> <p>10 extended to the tendering for RI. I believe you agree?</p> <p>11 MR WONG SE KING: Yes.</p> <p>12 MR VICTOR DAWES: That is why in the process of selecting</p> <p>13 RI, can I put it this way, the URA provides limited</p> <p>14 assistance, including putting up the tendering notices</p> <p>15 on your website and some tender price summary, sending</p> <p>16 officers to Wang Fuk Court for meetings?</p> <p>17 MR WONG SE KING: I agree.</p> <p>18 MR VICTOR DAWES: Regarding the three main elements of Smart</p> <p>19 Tender, in the selection of RI, the URA was not</p> <p>20 involved?</p> <p>21 MR WONG SE KING: Correct.</p> <p>22 MR VICTOR DAWES: When it comes to the tendering for</p> <p>23 consultants twice about Wang Fuk Court, the URA did not</p> <p>24 provide any advice on price. But at the same time you</p> <p>25 didn't ask them to conduct any assessments on</p>
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<p>1 a clear role to play. When you launched Smart Tender,</p> <p>2 you aimed at clamping down on bid-rigging.</p> <p>3 MR WONG SE KING: Well, it depends on whether</p> <p>4 anti-bid-rigging is at odds with reducing the risks of</p> <p>5 bid-rigging. We are tasked with reducing the risks of</p> <p>6 bid-rigging. We aren't tasked by the government to</p> <p>7 clamp down on bid-rigging. In other words, we make it</p> <p>8 more difficult for bid-rigging to happen but we are not</p> <p>9 evidence collection experts nor do we have resources to</p> <p>10 carry out investigations. I believe the URA is not</p> <p>11 appointed by the government to clamp down on bid-rigging</p> <p>12 nor do we have the resources to do so.</p> <p>13 MR VICTOR DAWES: In other words the purpose is to reduce</p> <p>14 the risks of bid-rigging?</p> <p>15 MR WONG SE KING: Yes. I cannot say that we combat</p> <p>16 bid-rigging.</p> <p>17 MR VICTOR DAWES: The URA's counsel's opening submissions</p> <p>18 mentioned three elements of Smart Tender. One,</p> <p>19 electronic tendering platform, so that all eligible</p> <p>20 contractors receive the relevant information. Two, open</p> <p>21 tender is conducted by accountants. And third,</p> <p>22 providing independent professional advice to residents.</p> <p>23 And in the course of tendering, assessments are</p> <p>24 conducted for residents' reference.</p> <p>25 MR WONG SE KING: Correct.</p>	<p>1 consultancy fees?</p> <p>2 MR WONG SE KING: Correct.</p> <p>3 MR VICTOR DAWES: Can I put it this way, at that stage, the</p> <p>4 URA already knew clearly that the contractor and the</p> <p>5 consultant had the risk of collusive bid-rigging and you</p> <p>6 knew this; is that correct?</p> <p>7 MR WONG SE KING: I had reservations about this. I knew-- I</p> <p>8 knew that there was a thief but it doesn't mean everyone</p> <p>9 in the world is a thief. We are talking about risks.</p> <p>10 MR VICTOR DAWES: I'm not asking you who is the thief. If</p> <p>11 only you knew, that'd be the best. The reason why I</p> <p>12 said so is that if you refer to the report submitted by</p> <p>13 the URA to the Competition Commission, I believe you're</p> <p>14 more involved in this than your colleagues. Let's go to</p> <p>15 page 10 of U1. Were you here this morning? You knew</p> <p>16 which report this is?</p> <p>17 MR WONG SE KING: Yes.</p> <p>18 MR VICTOR DAWES: Paragraph 7, page 10, the URA provided</p> <p>19 information about bidders. In paragraph 10, the</p> <p>20 Competition Commission mentioned this: using an</p> <p>21 ultra-low cost to win the project for the renovation</p> <p>22 work at an inflated price, this is not an uncommon</p> <p>23 phenomenon.</p> <p>24 MR WONG SE KING: Agreed. Let me give you some background</p> <p>25 information. In 2009, OBB 1.0, we already identified</p>

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<p>1 this problem. The URA has been advocating carrying out 2 construction works and inspecting the works at a 3 reasonable or at the market cost. 4 Smart Tender was set up to conduct contractor 5 procurement. We have PAR, and this helps residents to 6 gauge which one is reasonable and which one is not. So 7 for consultant, why no cost estimate? It's quite 8 difficult for us to do so with a consultant. There is a 9 great difference. One year, 20, 30 years, indeed a 10 great difference. Even Hong Kong Government or quantity 11 surveyors' firms do not have any officially published 12 tender price index for consultants. They have 13 construction price index. Construction works estimates 14 are provided to residents. However, regarding the 15 estimates, we cannot do so. That is because in the 16 market there is no officially recognised index that 17 tells people what the fair price should be. 18 In 2016, Hong Kong Institute of Surveyors published 19 information about the different prices for different 20 contractors of different years of experience, but then 21 not long afterwards the Competition Commission requested 22 the relevant information to be taken offline. If 23 providing a price for reference of residents isn't of 24 great value, we do not provide such information about 25 consultants.</p>	<p>1 and white tell residents this would definitely fail, 2 because we do not have this power. We are a public 3 organisation. Law, reason, compassion, these are our 4 principles and we do not have the legal authority to say 5 whether this is unreasonable or not. 6 This will attract accusations from the Office of The 7 Ombudsman because we violate certain principle, that is 8 the principle of impartiality or, in more serious cases 9 we might even be accused. If the median is as such, the 10 consultant might provide a low-price quote. If only 11 three mandates are provided to work on 20 blocks, is it 12 reasonable? We may ask these questions to guide 13 residents to think whether the amount of \$45,000 14 provided by the contractors is reasonable or not. 15 So we want to guide residents to think this is not 16 better just because it is less expensive, we want to 17 help them choose a more reasonable contractor or 18 consultant. 19 MR VICTOR DAWES: 65 per cent of the consultants' bids are 20 below the cost. 21 MR WONG SE KING: Mmm. 22 MR VICTOR DAWES: So you mean you will use other means to 23 help residents to understand some consultants' costs are 24 too low, but you cannot say \$45,000 for eight blocks' 25 building in Wang Fuk Court problematic, you cannot say</p>
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<p>1 MR VICTOR DAWES: Turning to page 15 of this bundle, 2 I understand what you meant. If we need to objectively 3 comment on whether the consultant price is reasonable, a 4 lot of factors are at play, such as experience, a lack 5 of objective figures such as construction materials. 6 It's quite difficult to comment on whether it's 7 reasonable. But do you agree in some situations, some 8 prices are clearly unreasonable, so over 65 per cent of 9 consultants' bids are below the cost? 10 MR WONG SE KING: I agree. For sure I agree. 11 MR VICTOR DAWES: For some prices it's difficult to gauge 12 whether they're reasonable or not but as a matter of 13 fact, a lot of tender prices -- or a lot of prices are 14 clearly unreasonable. 15 MR WONG SE KING: Agree. I'd like to add something here. 16 In 2019 Smart Tender services were extended to help 17 residents to look for RI and AP. We have value for 18 money list. We require every tender to provide 19 information of mandates and the cost. 20 In the end, when a computer opens the bid, all this 21 information is available and the value for money list 22 provides information on the medians and which figures 23 are 200 per cent over the median and 70 per cent below 24 the median are highlighted. The URA cannot tell 25 residents this one definitely fails. We cannot in black</p>	<p>1 so; is that correct? 2 MR WONG SE KING: Correct. We cannot say so. 3 MR VICTOR DAWES: The reason is there might be legal 4 consequences and you might be criticised by the Office 5 of The Ombudsman. 6 THE HON MR JUSTICE DAVID LOK: Mr Wong, just now you 7 referred to the Hong Kong Institute of Surveyors, the 8 list of prices. When was it prepared? 9 MR WONG SE KING: 2016. The MBIS was launched in 2012. The 10 Hong Kong Institute of Surveyors conducted a study -- 11 how many units in a block requires someone with 10 years 12 of experience. There is a table listing the hourly 13 rate. 14 Back then I wasn't a member of the Hong Kong 15 Institute of Surveyors and I asked members and they said 16 that the Competition Commission expressed views on the 17 list, that's why the list was taken off the shelf or 18 offline. 19 THE HON MR JUSTICE DAVID LOK: Residents want similar 20 information to be provided to them. So this may have to 21 do with the Competition Commission. 22 MR WONG SE KING: I tried to refer -- if the Hong Kong 23 Institute of Surveyors cannot do so, should we still 24 have to do it anyway? We might be in violation of the 25 Competition Ordinance. In 2019, when residents procured</p>

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<p>1 AP/RI, we didn't introduce this element. Instead, we</p> <p>2 provided a value for money list. We guided residents to</p> <p>3 tell whether this is reasonable or not. We trained</p> <p>4 colleagues to direct residents to think you need to</p> <p>5 consider two mandates are going to be used by the RI to</p> <p>6 work on all eight blocks in the same housing estate, is</p> <p>7 it reasonable?</p> <p>8 THE HON MR JUSTICE DAVID LOK: In other words, you cannot</p> <p>9 say that directly.</p> <p>10 MR WONG SE KING: Right.</p> <p>11 THE HON MR JUSTICE DAVID LOK: You have to say that</p> <p>12 indirectly; is that correct?</p> <p>13 MR WONG SE KING: Right.</p> <p>14 THE HON MR JUSTICE DAVID LOK: We have the Competition</p> <p>15 Commission counsel here. Some residents or some people</p> <p>16 are requesting this but this has to do with the</p> <p>17 competition law. This might not be allowed under the</p> <p>18 competition law, so how can we solve it? The</p> <p>19 Competition Commission's legal representative may</p> <p>20 provide us in this regard.</p> <p>21 The public may want to have more information about</p> <p>22 this. Without violating the Competition Ordinance, how</p> <p>23 can we have more of such information?</p> <p>24 MR VICTOR DAWES: Was it the Institute that was involved in</p> <p>25 handling the information?</p>	<p>1 and there is no solution to it yet?</p> <p>2 MR WONG SE KING: Correct. As residents factor in the</p> <p>3 price, this is their first concern, and we want to rely</p> <p>4 on pre-tender estimate. I believe, Mr Dawes, you</p> <p>5 understand how it operates. We want to provide</p> <p>6 residents with figures for reference.</p> <p>7 MR VICTOR DAWES: I have some other questions. You</p> <p>8 mentioned this episode and that gave rise to a concern</p> <p>9 that when you give advice on the price, something may go</p> <p>10 wrong, so someone did something, it may have fallen foul</p> <p>11 of the Competition Commission. Did you talk to the</p> <p>12 Competition Commission directly about that?</p> <p>13 MR WONG SE KING: No.</p> <p>14 MR VICTOR DAWES: But you're supposed to be in touch with</p> <p>15 them.</p> <p>16 MR WONG SE KING: We did not reach out to the Competition</p> <p>17 Commission given what had happened.</p> <p>18 MR VICTOR DAWES: You just heard about that?</p> <p>19 MR WONG SE KING: We talked to the council members of the</p> <p>20 Hong Kong Institute of Surveyors, we learned about that.</p> <p>21 MR VICTOR DAWES: We will not dwell on this. The concern is</p> <p>22 the Competition Ordinance.</p> <p>23 Here is something else I will need your assistance</p> <p>24 for. For the electronic tendering platform of Smart</p> <p>25 Tender, one function of this platform is to allow the</p>
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<p>1 MR WONG SE KING: I wasn't a council member of the Institute</p> <p>2 and I wasn't involved.</p> <p>3 I thought, regarding works contract, pre-tender</p> <p>4 estimates -- I thought whether we could provide such</p> <p>5 information to residents. We talked to industry players</p> <p>6 and we knew that the Hong Kong Institute of Surveyors</p> <p>7 was persuaded to take the list off.</p> <p>8 MR VICTOR DAWES: In other words, regarding RI, you provided</p> <p>9 no comments. The background is your worries, as you</p> <p>10 already explained.</p> <p>11 MR WONG SE KING: Right.</p> <p>12 MR VICTOR DAWES: So for some clearly unreasonable</p> <p>13 consultants, you simply tried to indirectly alert the</p> <p>14 residents.</p> <p>15 MR WONG SE KING: Correct.</p> <p>16 MR VICTOR DAWES: In some situations, RI used unreasonably</p> <p>17 low prices to win some service contracts. Then they</p> <p>18 helped contractors to inflate the price. From your</p> <p>19 perspective, there is no effective mechanism to handle</p> <p>20 this; is that correct?</p> <p>21 MR WONG SE KING: So far --</p> <p>22 MR VICTOR DAWES: Well, just answer my question. Is that</p> <p>23 correct?</p> <p>24 MR WONG SE KING: Correct. No.</p> <p>25 MR VICTOR DAWES: And this has been a longstanding problem</p>	<p>1 tenderers to stay anonymous before bid-opening. This is</p> <p>2 to reduce the collusion risks. This is what you say in</p> <p>3 paragraph 44 in your witness statement. So when you opt</p> <p>4 for Smart Tender, you stay anonymous.</p> <p>5 MR WONG SE KING: And we also make sure that all registered</p> <p>6 contractors can receive the tender information.</p> <p>7 MR VICTOR DAWES: Contractors can download tender documents</p> <p>8 from the e-platform. They can also ask questions?</p> <p>9 MR WONG SE KING: Correct.</p> <p>10 MR VICTOR DAWES: And they can also conduct site</p> <p>11 inspections?</p> <p>12 MR WONG SE KING: Yes, they can.</p> <p>13 MR VICTOR DAWES: When they submit tenders, they can do so</p> <p>14 without giving away their identity.</p> <p>15 MR WONG SE KING: That's correct.</p> <p>16 MR VICTOR DAWES: Let's look at what the e-platform can --</p> <p>17 or, rather, let's look at what Smart Tender cannot do.</p> <p>18 Some cannot prevent contractors from colluding among</p> <p>19 themselves in secret. If it there's this kind of</p> <p>20 collusion, the platform cannot do anything.</p> <p>21 MR WONG SE KING: I agree.</p> <p>22 MR VICTOR DAWES: In paragraphs 40 to 43 in your witness</p> <p>23 statement, you say the URA encourages wider adoption of</p> <p>24 Smart Tender among contractors. You have tried to stop</p> <p>25 bad actors from registering.</p>

<p>Page 105</p> <p>1 MR WONG SE KING: Correct.</p> <p>2 MR VICTOR DAWES: In 2018 you introduced measures. If a</p> <p>3 contractor was convicted under the Prevention of Bribery</p> <p>4 Ordinance or was prosecuted or convicted under the</p> <p>5 Competition Ordinance, then they could not sign up.</p> <p>6 MR WONG SE KING: That's correct. As long as this</p> <p>7 contractor was prosecuted under those two ordinances,</p> <p>8 we would remove those contractors from the list. It was</p> <p>9 just prosecution, no conviction yet, so we took them off</p> <p>10 the list first. At that point, those contractors could</p> <p>11 not submit tenders. When the court cleared these</p> <p>12 contractors, those contractors will have their names</p> <p>13 restored. But if these contractors were convicted, then</p> <p>14 their names would be removed.</p> <p>15 MR VICTOR DAWES: For new joiners, they would have to let</p> <p>16 the URA know whether they were prosecuted.</p> <p>17 MR WONG SE KING: Not for Smart Tender. For Smart Tender we</p> <p>18 simply required a business registration certificate and</p> <p>19 a certificate from the Buildings Department or</p> <p>20 a relevant government department. But I want to say</p> <p>21 more on this. Before the Wang Fuk Court fire, we came</p> <p>22 up with a pre-qualified list with the Development</p> <p>23 Bureau. That's for round 3 of Operation Building</p> <p>24 Bright, or OBB. Under OBB round 3, we need not just the</p> <p>25 business registration certificate and the licence, we</p>	<p>Page 107</p> <p>1 MR WONG SE KING: Right.</p> <p>2 MR VICTOR DAWES: Can you tell us on how many occasions have</p> <p>3 the URA removed contractors from the list as a result of</p> <p>4 prosecution or conviction?</p> <p>5 MR WONG SE KING: So there was an Operation Fire Net. When</p> <p>6 the ICAC announces an action, we take action.</p> <p>7 MR VICTOR DAWES: So there was this one occasion?</p> <p>8 MR WONG SE KING: Operation Fire Net.</p> <p>9 MR VICTOR DAWES: I asked how many occasions.</p> <p>10 MR WONG SE KING: Fire Net is something I can recall. I</p> <p>11 cannot recall other operations.</p> <p>12 MR VICTOR DAWES: We only saw one incident when we searched</p> <p>13 online.</p> <p>14 MR WONG SE KING: I can't be sure.</p> <p>15 MR VICTOR DAWES: A contractor joining Smart Tender does not</p> <p>16 have to declare their conviction or litigation record.</p> <p>17 You said before the fire there was a roadmap. That new</p> <p>18 arrangement would be put in place. There's no concrete</p> <p>19 date for the implementation; right?</p> <p>20 MR WONG SE KING: The pre-qualified list was launched in</p> <p>21 September 2024 for Operation Building Bright 3. We had</p> <p>22 a roadmap, we wanted the system to be more</p> <p>23 well-established. We didn't feel there was enough</p> <p>24 contractors.</p> <p>25 MR VICTOR DAWES: But let's come back to Smart Tender at the</p>
<p>Page 106</p> <p>1 also require the contractors to declare whether they had</p> <p>2 any conviction over the past five years, including</p> <p>3 whether they hired illegal workers, et cetera. We do</p> <p>4 have a roadmap of expanding this pre-qualified list</p> <p>5 beyond round 3 of Operation Building Bright.</p> <p>6 Once we have this expanded pre-qualified list,</p> <p>7 we will be able to phase out the Smart Tender list. We</p> <p>8 want to gradually raise the threshold so that service</p> <p>9 providers registered on Smart Tender will have a certain</p> <p>10 level of integrity.</p> <p>11 MR VICTOR DAWES: We want to look at the measures at the</p> <p>12 point of the fire. We still also take an interest in</p> <p>13 your future plans. But based on what you have said,</p> <p>14 before the fire, when Wang Fuk Court was undergoing the</p> <p>15 tendering process, for a contractor signing up for Smart</p> <p>16 Tender, they were not required to declare their</p> <p>17 litigation or conviction records?</p> <p>18 MR WONG SE KING: That's correct.</p> <p>19 MR VICTOR DAWES: They had a licence and then they could</p> <p>20 apply. The URA did not require them to submit</p> <p>21 litigation records?</p> <p>22 MR WONG SE KING: Correct.</p> <p>23 MR VICTOR DAWES: On the URA's website, we saw 442</p> <p>24 registered contractors that signed up as users on Smart</p> <p>25 Tender.</p>	<p>Page 108</p> <p>1 moment. So there was a plan to introduce these</p> <p>2 elements.</p> <p>3 MR WONG SE KING: Right.</p> <p>4 MR VICTOR DAWES: And you don't have a specific date in mind</p> <p>5 for implementing this new arrangement. Can I say this?</p> <p>6 MR WONG SE KING: Now, before the fire, you didn't get to do</p> <p>7 it. After the fire we're thinking about an enhanced</p> <p>8 version of Smart Tender. One element of this new</p> <p>9 version is to get the record from the background</p> <p>10 screening performed by the police and the ICAC. The</p> <p>11 contractor will have to declare they have no record of</p> <p>12 corruption, no anti-competitive behaviour, no fatality.</p> <p>13 This contractor will have to go through the background</p> <p>14 screening by the police and the ICAC before they can</p> <p>15 make it to the list.</p> <p>16 MR VICTOR DAWES: You gave thought to such issues. In</p> <p>17 paragraph 60 of your witness statement, in 2021 the URA</p> <p>18 launched the Building Rehabilitation Company</p> <p>19 Registration System, BRCRS.</p> <p>20 MR WONG SE KING: Yes.</p> <p>21 MR VICTOR DAWES: So there were lists of RIs and RGBCs.</p> <p>22 This falls outside Smart Tender.</p> <p>23 MR WONG SE KING: Correct.</p> <p>24 MR VICTOR DAWES: Under this system, contractors had to</p> <p>25 declare their conviction records, if any, over the last</p>

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<p>1 three years.</p> <p>2 MR WONG SE KING: Correct.</p> <p>3 MR VICTOR DAWES: And contractors are also required to take</p> <p>4 part in the accreditation performed by the Hong Kong</p> <p>5 Quality Assurance Agency.</p> <p>6 MR WONG SE KING: Correct.</p> <p>7 MR VICTOR DAWES: If that was put in place in 2021, then how</p> <p>8 come you did not adopt a similar practice for Smart</p> <p>9 Tender? You knew these measures works. For years you</p> <p>10 also knew that there were vulnerabilities in the system</p> <p>11 guarding against bid-rigging. So in this case, the RI</p> <p>12 colluded with the contractor. How come these measures</p> <p>13 were not applied to Smart Tender? Can you explain?</p> <p>14 MR WONG SE KING: Over the past 10 years there have been</p> <p>15 enhancements to Smart Tender. For the URA, collusion</p> <p>16 has been a challenge. We don't have concrete</p> <p>17 information. Our staff are not trained to identify</p> <p>18 collusion, so that's a challenge. We can only provide</p> <p>19 more information to the extent that it's practicable.</p> <p>20 In 2016 Smart Tender was rolled out. In 2020 or</p> <p>21 2022 a template was launched. Different support</p> <p>22 measures were launched to assist home owners with</p> <p>23 building rehabilitation.</p> <p>24 On the point of collusion, I've heard about</p> <p>25 different things. But do we have anything for us to</p>	<p>1 colleague said you got 17,000 bids every year, so</p> <p>2 manpower is an issue. Sorting out the connections</p> <p>3 between companies also represents a vast amount of work.</p> <p>4 The problem with Smart Tender is that even when you</p> <p>5 require or simply asking contractors to set out their</p> <p>6 connections with other bodies, even those requirements</p> <p>7 are absent. 17,000 bids a year sounds like a lot. 442</p> <p>8 contractors take part in this platform. But common</p> <p>9 sense shows you can just ask them for this information.</p> <p>10 MR WONG SE KING: When the contractors sign up, we ask for</p> <p>11 the names of their authorised signatories and</p> <p>12 shareholders. If there's duplication in the names of</p> <p>13 shareholders, that information should be reflected. So</p> <p>14 we would be able to see that sort of information.</p> <p>15 MR VICTOR DAWES: Let's move on to the role of the</p> <p>16 independent consultant. Paragraph 22 of your witness</p> <p>17 statement covers this. Stage 1, preparing the</p> <p>18 preliminary report. So before the inspection, there is</p> <p>19 a preliminary cost estimate, and then, stage 2,</p> <p>20 preparing PAR1. And also vetting the tender documents</p> <p>21 drafted by the OC. And then PAR2, independent cost</p> <p>22 estimate. The independent consultant will also look at</p> <p>23 the works items and nature of such works to guard</p> <p>24 against bidding. This information is made available</p> <p>25 only after the bid opening.</p>
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<p>1 address collusion? That's not something Smart Tender</p> <p>2 can do.</p> <p>3 MR VICTOR DAWES: I want to clarify something. You know</p> <p>4 collusion is a problem. Let's look at the Competition</p> <p>5 Commission's report in 2016. My question is you saw the</p> <p>6 issue. Why wasn't there any measure to prevent this</p> <p>7 problem from happening? Other measures may help. So</p> <p>8 why were these measures not adopted in the five years</p> <p>9 before the fire? There were other enhancements to Smart</p> <p>10 Tender.</p> <p>11 MR WONG SE KING: Correct.</p> <p>12 MR VICTOR DAWES: But when it comes to the issue we just</p> <p>13 talked about, meaning the RI colluding with the</p> <p>14 contractor, there appears to be no measure to plug this</p> <p>15 loophole.</p> <p>16 MR WONG SE KING: I take issue with the statement that there</p> <p>17 was no measure. This is just not reflected in the</p> <p>18 bundle. We checked on some contractors and consultants</p> <p>19 to try to cross-check the record to see if there were</p> <p>20 cases where once a consultant secures a contract then a</p> <p>21 contractor is almost certain to get the later contract.</p> <p>22 MR VICTOR DAWES: As you said, you had resource constraints</p> <p>23 so you could not mount a systematic effort.</p> <p>24 MR WONG SE KING: Correct.</p> <p>25 MR VICTOR DAWES: Other measures were also considered. Your</p>	<p>1 And then we move to stage 4. The consultant</p> <p>2 prepares a report analysing the returned tenders. So</p> <p>3 that's about the accuracy of the report.</p> <p>4 And then stage 5, it's outside the scope of Smart</p> <p>5 Tender. For those who successfully apply for Operation</p> <p>6 Building Bright 2.0, the independent consultant would</p> <p>7 prepare a contract assessment report. So five stages in</p> <p>8 total.</p> <p>9 MR WONG SE KING: Correct.</p> <p>10 MR VICTOR DAWES: The independent consultant plays a key</p> <p>11 role.</p> <p>12 MR WONG SE KING: I agree.</p> <p>13 MR VICTOR DAWES: The idea was to have a consultant to</p> <p>14 reduce the risk of bid-rigging.</p> <p>15 MR WONG SE KING: That's indeed our design.</p> <p>16 MR VICTOR DAWES: Paragraph 31 of your statement explains</p> <p>17 that in August 2017 you went through a tendering</p> <p>18 procedure. You awarded the contracts to the lowest</p> <p>19 bidders. You selected three surveyors' firms. So when</p> <p>20 projects under Smart Tender come along, you assign these</p> <p>21 three surveyors to those projects. You got Multiple</p> <p>22 Surveyors and in this case we got RS Surveyors and</p> <p>23 there's another called KC Surveyors.</p> <p>24 MR WONG SE KING: Correct.</p> <p>25 MR VICTOR DAWES: So they take turns in working on those</p>

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<p>1 projects?</p> <p>2 MR WONG SE KING: Correct. We also require them to declare</p> <p>3 interest.</p> <p>4 MR VICTOR DAWES: Are you still with these three surveyors</p> <p>5 since 2017?</p> <p>6 MR WONG SE KING: No. We get a new contract every three</p> <p>7 years. Let's say a contract expires tomorrow and I</p> <p>8 assign a contract to a surveyor, they still have to</p> <p>9 finish the entire contract.</p> <p>10 MR VICTOR DAWES: So my question is, are we still working</p> <p>11 with these three contractors, from 2017?</p> <p>12 MR WONG SE KING: RS is still with us. KC is not with us.</p> <p>13 Multiple is still with us.</p> <p>14 MR VICTOR DAWES: I'm not levelling any accusation and I</p> <p>15 don't mean to criticise RS Surveyors for any bid-rigging</p> <p>16 or anti-competitive behaviour. I want to look at</p> <p>17 whether there are vulnerabilities in the system. So do</p> <p>18 you allow the following. You have a tendering process.</p> <p>19 Multiple Surveyors serve as your independent consultant.</p> <p>20 Will RS Surveyors be allowed to serve as the consultant?</p> <p>21 MR WONG SE KING: I want to think about this. Multiple</p> <p>22 Surveyors serves as the independent consultant and then</p> <p>23 RS Surveyors serves as the registered inspector. That</p> <p>24 is possible. We cannot prevent surveyors from taking up</p> <p>25 outside project. In this case, the independent</p>	<p>1 MR WONG SE KING: If it's about the particular estate that</p> <p>2 you were mentioning, RS Surveyors is the RI. I cannot</p> <p>3 be sure right away which surveyor serves at which</p> <p>4 housing estate.</p> <p>5 MR VICTOR DAWES: I'm talking about Sui Wo Court. It's just</p> <p>6 that there's information pointing to this. RS Surveyors</p> <p>7 declared their interest. Let's look at E1-1, page 273.</p> <p>8 This is a form for declaration of interest. Please go</p> <p>9 to page 275. RS Surveyors also signed the declaration</p> <p>10 of no conflict of interest and confidentiality</p> <p>11 undertaking. This is submitted to you. Director of</p> <p>12 RS Surveyors, Mr Lee, told you this.</p> <p>13 At page 1190 there's an email. You asked them if</p> <p>14 there is any conflict of interest. They said there's no</p> <p>15 conflict of interest.</p> <p>16 Your requirements are more than this. According to</p> <p>17 your tender document, RS Surveyors, once appointed, is</p> <p>18 asked to declare interest among all staff members of the</p> <p>19 RS Surveyors.</p> <p>20 MR WONG SE KING: Understood. Yes.</p> <p>21 MR VICTOR DAWES: Did you carry out these requirements,</p> <p>22 asking all the staff members to declare interest?</p> <p>23 MR WONG SE KING: Yes.</p> <p>24 MR VICTOR DAWES: Have you looked into whether RS Surveyors</p> <p>25 made declarations of interest?</p>
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<p>1 consultant will have to declare their interest.</p> <p>2 MR VICTOR DAWES: But you only have three firms. So when</p> <p>3 you have one of them serving as RI, the other two can</p> <p>4 only be consultant.</p> <p>5 MR WONG SE KING: As that actually happens, I cannot recall.</p> <p>6 MR VICTOR DAWES: So let's say the next project comes along,</p> <p>7 Multiple Surveyors -- RS is your independent consultant</p> <p>8 and Multiple Surveyors serves as your consultant. Has</p> <p>9 that ever occurred?</p> <p>10 MR WONG SE KING: I cannot recall.</p> <p>11 MR VICTOR DAWES: For these three independent consultants,</p> <p>12 they also serve as registered inspectors from outside</p> <p>13 parties. Do you think?</p> <p>14 MR WONG SE KING: I'm not sure whether they actually do. We</p> <p>15 cannot exclude these surveyors from taking on outside</p> <p>16 appointments. We just have to make sure that when we</p> <p>17 assign these surveyors to a housing estate, they cannot</p> <p>18 take up other roles for the same estate.</p> <p>19 MR VICTOR DAWES: So you cannot answer whether these three</p> <p>20 surveyors also served as registered inspectors for other</p> <p>21 buildings?</p> <p>22 MR WONG SE KING: Right.</p> <p>23 MR VICTOR DAWES: We have information showing that one of</p> <p>24 these surveyors also served as the RI at another housing</p> <p>25 estate.</p>	<p>1 MR WONG SE KING: Yes.</p> <p>2 MR VICTOR DAWES: All the staff members made declarations?</p> <p>3 MR WONG SE KING: Correct.</p> <p>4 MR VICTOR DAWES: Now, on RS Surveyors, do you have any</p> <p>5 records showing the works projects done by RS Surveyors</p> <p>6 and their connections to directors or shareholders of</p> <p>7 other companies? Because these three ICs of yours are</p> <p>8 particularly important, you would understand that that's</p> <p>9 different from all the consultants on the market. So</p> <p>10 I'd like to ask you about the monitoring over these</p> <p>11 three consultants.</p> <p>12 MR WONG SE KING: First of all, they have to declare</p> <p>13 interest. After the declaration, when we assign jobs,</p> <p>14 they have to declare they have to no conflict of</p> <p>15 interest with the OC of the particular estate; that's a</p> <p>16 must. Of course I cannot rule out the possibility that</p> <p>17 they are taking on jobs on the market. Everyone in the</p> <p>18 company needs to declare interest. ICAC is aware of</p> <p>19 which companies are independent consultant. We</p> <p>20 regularly communicate with ICAC. If there is any</p> <p>21 suspicion, ICAC would be aware of it. If there's any</p> <p>22 ill-intended parties or suspicious transactions, we will</p> <p>23 be informed and we will take action.</p> <p>24 MR VICTOR DAWES: The reason why I'm concerned about these</p> <p>25 three ICs is because the IC will monitor over the work</p>

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<p>1 of RI and they will review the work of RI.</p> <p>2 MR WONG SE KING: Right.</p> <p>3 MR VICTOR DAWES: Because there are only a few independent</p> <p>4 consultants, you need to monitor the work of these three</p> <p>5 ICs heavily.</p> <p>6 MR WONG SE KING: Correct.</p> <p>7 MR VICTOR DAWES: I'm sure that you will understand me in</p> <p>8 saying this. RS, you asked them to be referee for the</p> <p>9 first game to look over the games, and for the second</p> <p>10 game, if you asked the RS to be the player, then this</p> <p>11 may not be ideal. Would you agree with that?</p> <p>12 MR WONG SE KING: Agreed.</p> <p>13 MR VICTOR DAWES: Chairman, would you like a break for</p> <p>14 10 minutes?</p> <p>15 THE HON MR JUSTICE DAVID LOK: Let's break for 10 minutes.</p> <p>16 (3.24 pm)</p> <p>17 (A short adjournment)</p> <p>18 (3.34 pm)</p> <p>19 THE HON MR JUSTICE DAVID LOK: Please proceed.</p> <p>20 MR VICTOR DAWES: Mr Wong, before the break we were talking</p> <p>21 about RS Surveyors. You said that before RS took on the</p> <p>22 job at Wang Fuk Court to become your independent</p> <p>23 consultant they signed some declarations. They claimed</p> <p>24 that they have no conflict of interest in 2018. We</p> <p>25 looked at the email on 1 February 2018. That's an email</p>	<p>1 returned, we look at the necessity of the works</p> <p>2 proposed, including the methodology of repair and the</p> <p>3 choice of materials. The consultant will not comment on</p> <p>4 any of that?</p> <p>5 MR WONG SE KING: No. RS Surveyors, in their tender</p> <p>6 analysis report, would look at whether the works</p> <p>7 involved comply with the laws.</p> <p>8 MR VICTOR DAWES: In other words, it seems that this</p> <p>9 independent consultant's major responsibility is to look</p> <p>10 at whether the works set out in the tender after they're</p> <p>11 completed would allow the MBIS order to be discharged.</p> <p>12 MR WONG SE KING: That's one of their responsibilities.</p> <p>13 When they comment or analyse the tenders, the IC will</p> <p>14 look at the pre-approved tender assessment criteria to</p> <p>15 see if they have been complied with and if there is</p> <p>16 anything missing out, reminder will be given, but RS</p> <p>17 would not comment on the scoring provided by Will Power</p> <p>18 on tenders. For Wang Fuk Court, before the bid's</p> <p>19 opening, say, for example, we set 10 assessment</p> <p>20 criteria, our consultant needs to make sure that</p> <p>21 Will Power considered all of the criteria. But as to</p> <p>22 the priority of their criteria, we are not going to</p> <p>23 comment on that.</p> <p>24 MR VICTOR DAWES: So regarding anti-bid-rigging or reducing</p> <p>25 the risk of bid-rigging, consultant have very little</p>
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<p>1 from Mr Lee. So when tenders are returned, and only at</p> <p>2 that moment would you find out if there is any conflict</p> <p>3 of interest; is that right?</p> <p>4 MR WONG SE KING: We need to wait until the tenders are</p> <p>5 returned and I would know that which tenderers placed</p> <p>6 the bid. We would not directly comment on the content</p> <p>7 of the tenders. For Wang Fuk Court we received</p> <p>8 57 tenders. Within the trade, it's commonplace for</p> <p>9 people to know each other. If we have to declare</p> <p>10 everyone we know, it would be difficult.</p> <p>11 MR VICTOR DAWES: In other words, they wouldn't need to</p> <p>12 declare when they take on the job?</p> <p>13 MR WONG SE KING: They need to do so, but if you ask them if</p> <p>14 there is any conflict of interest on a return of tender,</p> <p>15 they don't have to declare whether they have conflict of</p> <p>16 interest with the remaining 56 tenderers. We don't ask</p> <p>17 the RS to comment on the 57 tenders.</p> <p>18 MR VICTOR DAWES: That's your justification. We heard that.</p> <p>19 You mentioned just now that RS will not have to</p> <p>20 declare interest on the 57 tenders. What did you say</p> <p>21 exactly?</p> <p>22 MR WONG SE KING: They will not comment on the price of the</p> <p>23 tenders. The RS will not comment on the 57 tenders</p> <p>24 returned.</p> <p>25 MR VICTOR DAWES: In other words, after the tenders are</p>	<p>1 role to play.</p> <p>2 MR WONG SE KING: That's correct, because at that stage</p> <p>3 tenders have already returned, we just need to make sure</p> <p>4 the tender is fair.</p> <p>5 MR VICTOR DAWES: As we mentioned, some of the works may not</p> <p>6 be necessary. Say, for example, if we need to tile the</p> <p>7 FS tank at the rooftop, if there is actually water</p> <p>8 seepage with the FS tank, they would not look at whether</p> <p>9 these works were necessary for Wang Fuk Court and they</p> <p>10 will not assess whether this is redundant.</p> <p>11 MR WONG SE KING: Mr Chan was asked by Mr Dawes whether the</p> <p>12 initial assessment report was redundant.</p> <p>13 MR VICTOR DAWES: Please continue.</p> <p>14 MR WONG SE KING: Our consultant would talk to the OC about</p> <p>15 their wish list and were going to give them initial</p> <p>16 advice. At the end, after Will Power conducted the</p> <p>17 building survey, they may discover that there are many</p> <p>18 things that we need to work on. The independent</p> <p>19 consultant would not be aware of that. The consultant</p> <p>20 will talk to the OC to see what kind of works are</p> <p>21 necessary. IC have the responsibility to explain this</p> <p>22 to the OC of Wang Fuk Court.</p> <p>23 Rooftop seepage, this may not be under the purview</p> <p>24 of MBIS. If we think that this is necessary and they</p> <p>25 also do not include that, we may make suggestions. But</p>

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<p>1 for water seepage of FS tank at the rooftop, as to</p> <p>2 whether tiling is necessary, we're not going to comment</p> <p>3 on that.</p> <p>4 MR VICTOR DAWES: Just now you mentioned the independent</p> <p>5 consultant. Regarding some works, the perspective is</p> <p>6 you need to comply with the MBIS order. If you do not</p> <p>7 do so, then there will be consequences as a result of</p> <p>8 the order.</p> <p>9 MR WONG SE KING: I agree.</p> <p>10 MR VICTOR DAWES: Apart from that, any more?</p> <p>11 MR WONG SE KING: Our initial assessment report's purpose is</p> <p>12 to understand the wish list of the OC. Let me give you</p> <p>13 an analogy. If we fall sick, we go to a general</p> <p>14 practitioner in the general operation clinic. Simple</p> <p>15 checkups are conducted to tell you what is wrong with</p> <p>16 your physical condition and then you're referred to</p> <p>17 X-ray, MRI, a specialist, and the patient has freedom to</p> <p>18 choose whether they will proceed to do so. We want to</p> <p>19 play the goal of the general operation clinic. We want</p> <p>20 to let owners know the conditions of the buildings.</p> <p>21 There are a few issues that we recommend owners to</p> <p>22 consider. Despite no MBIS order, waterproof on the</p> <p>23 rooftop, the replacement of watermains as well as other</p> <p>24 pipes in relation to the air-conditioners, if there is</p> <p>25 no building rehabilitation of your building for a long</p>	<p>1 witness the original estimate is \$100 million and then</p> <p>2 in the end the works involve \$200 million. This is not</p> <p>3 surprising to you?</p> <p>4 MR WONG SE KING: Well, let me refer to the analogy I used</p> <p>5 just now. In general operation clinic, the patient</p> <p>6 hasn't undergone any MRI, X-ray and so on. Will Power</p> <p>7 should discuss with owners what materials to use. After</p> <p>8 they have confirmed the materials, then the estimate</p> <p>9 will be more accurate. The estimate is preliminary,</p> <p>10 that is, the basic point -- we didn't expect that all</p> <p>11 mosaic tiles to be removed. That is not about the</p> <p>12 preliminary estimate. That is the very first estimate.</p> <p>13 MR VICTOR DAWES: After you have undergone a checkup and a</p> <p>14 specialist asks you to do a lot of unnecessary checkups</p> <p>15 or unnecessary operations, a general practitioner will</p> <p>16 not be able to help the patient; is that correct?</p> <p>17 MR WONG SE KING: Correct. A doctor will not interfere with</p> <p>18 the decision of another doctor.</p> <p>19 MR VICTOR DAWES: But that is different from this situation.</p> <p>20 The original purpose of an independent consultant is to</p> <p>21 monitor the RI.</p> <p>22 MR WONG SE KING: Agreed.</p> <p>23 MR VICTOR DAWES: But it seems the effect of monitoring is</p> <p>24 quite limited.</p> <p>25 MR WONG SE KING: The purpose of the RI, what we can do is</p>
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<p>1 time, why not do so? We recommend this to the OCs. But</p> <p>2 of course the final decision rests with the OC.</p> <p>3 Regarding how much to do, we have no comment. For</p> <p>4 example, if we identify leakage on the rooftop, should</p> <p>5 the repair works be conducted in phases or should the</p> <p>6 rooftop be overhauled? Should the tiles be removed so</p> <p>7 that repair works will be conducted from scratch? This</p> <p>8 will be left to the OCs.</p> <p>9 MR VICTOR DAWES: Regarding collusion to conduct works that</p> <p>10 are not necessary, hence an inflation of the price, the</p> <p>11 consultant could not prevent this from happening; is</p> <p>12 that correct?</p> <p>13 MR WONG SE KING: Correct. Then we refer to the Wang Fuk</p> <p>14 Court incident. Regarding the external wall, three</p> <p>15 options. Our independent consultant cannot interfere</p> <p>16 with the OC in relation to what cannot be done. This is</p> <p>17 the decision of owners. Our independent consultant has</p> <p>18 a responsibility for providing PAR. Our independent</p> <p>19 consultant will base on the final version of the tender</p> <p>20 document to provide an estimate.</p> <p>21 MR VICTOR DAWES: It's not an optional work; is that</p> <p>22 correct?</p> <p>23 MR WONG SE KING: Yes, you are correct. Choosing tiles,</p> <p>24 you're correct.</p> <p>25 MR VICTOR DAWES: This morning we explored with another</p>	<p>1 to check whether all the items have been done under</p> <p>2 a subsidy scheme. Our independent consultant cannot</p> <p>3 represent owners to engage in RI. In relation to what</p> <p>4 is done in the end, this is indeed the decision of</p> <p>5 owners. We cannot interfere with that.</p> <p>6 MR VICTOR DAWES: Regarding a systemic issue, the estimate</p> <p>7 of independent consultants is based on the market price.</p> <p>8 MR WONG SE KING: Right.</p> <p>9 MR VICTOR DAWES: Regarding items under large-scale</p> <p>10 renovation works, for a long time bid-rigging groups</p> <p>11 inflate or drive up the construction project costs. Do</p> <p>12 you agree that this systemic problem exists?</p> <p>13 MR WONG SE KING: Yes. But it all depends on whether owners</p> <p>14 choose the inflated price. A bid from \$10 million to</p> <p>15 \$1 million, when the owners' choose the \$100 million,</p> <p>16 that will become the market price. But if the estimate</p> <p>17 is 50 million but they still choose \$100 million, this</p> <p>18 is out of our control.</p> <p>19 MR VICTOR DAWES: It seems this is a systemic issue. If</p> <p>20 some bid-rigging groups drive up the market price, this</p> <p>21 will affect the estimate of the independent consultant.</p> <p>22 MR WONG SE KING: I agree. If this is done for a long time,</p> <p>23 I agree.</p> <p>24 MR VICTOR DAWES: This problem exists. Do you agree? Or</p> <p>25 you cannot tell?</p>

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<p>1 MR WONG SE KING: Cannot say that it exists. We conducted 2 a study a few years ago. Just assume the pre-tender 3 estimate is independent. If the awarding of the 4 contract deviates from the estimate of the independent 5 consultant, there is a percentage but then I do not have 6 the report with me. The contract is within our 7 pre-tender estimate, about 10 per cent to 20 per cent, 8 over half, so your assumption is correct. For a long 9 time if owners choose the higher price, it may drive up 10 the market price, but did it happen in the market? We 11 have independent estimates. We have statistical figures 12 telling us over 60 per cent of the cases have chosen a 13 cost that is below the pre-tender estimate. 14 MR VICTOR DAWES: Can you provide? 15 MR WONG SE KING: Yes, we can. I'm willing to provide such 16 figures. 17 MR VICTOR DAWES: Regarding the importance of independent 18 consultants, please refer to E1-1, page 673. 19 Independent consultant, an important role to play. You 20 have assessed the performance of consultants. 21 MR WONG SE KING: Yes. 22 MR VICTOR DAWES: Conducted by whom? 23 MR WONG SE KING: For every independent consultant, we have 24 a team responsible for this evaluation. 25 MR VICTOR DAWES: Have you seen this form?</p>	<p>1 that the role of the URA is a facilitator, therefore 2 owing to resources, your hands are tied for many 3 matters. 4 MR WONG SE KING: The Government does not give us power to 5 combat corruption. 6 MR VICTOR DAWES: The name is Smart Tender, so people may 7 find fault in different areas, saying that there are 8 issues. With Smart Tender, many ill-intended parties 9 can tell OCs or other people that we use Smart Tender, 10 so rest assured. In other words, there is a false sense 11 of security. That is, whenever they use Smart Tender, 12 then there won't be any problems. 13 MR WONG SE KING: I cannot say that this is wrong. Some 14 people say that when you use Smart Tender there won't be 15 any problems. We need the collaboration of residents as 16 well. If we just rely solely on URA, we cannot 17 eradicate bid-rigging. Our experience tells us it's 18 difficult to eradicate all risks of bid-rigging. 19 MR VICTOR DAWES: It's not unfair to say so, see if you 20 agree or not. There are some longstanding issues that 21 cannot be prevented by Smart Tender such as RI 22 contractors' collusion. Nothing can be done to prevent 23 such collusion. Do you agree? 24 MR WONG SE KING: Yes. 25 MR VICTOR DAWES: Let's see what Smart Tender can do.</p>
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<p>1 MR WONG SE KING: Yes. 2 MR VICTOR DAWES: On the bottom-left corner you see "General 3 comments". There is no comment. 4 MR WONG SE KING: Mmm. 5 MR VICTOR DAWES: What criteria are used to carry out this 6 evaluation? A(c), quality and accuracy of progress 7 reports, quality of final report. How do you conduct 8 these evaluations? 9 MR WONG SE KING: Project management has three elements: 10 time; cost; quality. Time, every three months -- well, 11 it's straightforward for time. Just whether -- 12 punctuality of submitting the report. And accuracy, 13 whether it meets our requirements and costs. Well, just 14 follow the market price. Regarding quality, it's all 15 done to the accuracy of the reports, pre-tender 16 estimate, can they explain the range, can they explain 17 the estimate. We on a regular basis monitor this. But 18 of course cooperation, are they willing to cooperate? 19 This is one of the scoring criteria as well. 20 MR VICTOR DAWES: I believe you agree, as you were working 21 very hard on Smart Tender 2.0, regarding 22 anti-bid-rigging work or prevention of bid-rigging, 23 Smart Tender cannot prevent bid-rigging. Do you agree? 24 MR WONG SE KING: Yes. 25 MR VICTOR DAWES: And you're clear that your position is</p>	<p>1 Will Power tender analysis report, E1-4/8969. They use 2 two ratings. One, within two years issued by practising 3 solicitor's certificate of no legal proceedings. And 9, 4 no litigation record in the past eight years. So for 5 Will Power, no? 6 MR WONG SE KING: Right. 7 MR VICTOR DAWES: There's a document issued by Pansy Leung 8 Tang & Chua. Page 903, we can see the record of such 9 a document. When we take a look at this document, we 10 can already tell that it is not the case that there is 11 no legal proceeding. 12 MR WONG SE KING: Well, it said that the company has no 13 record of being sued by OCs and management companies. 14 MR VICTOR DAWES: That means it is not the case that there 15 is no legal proceedings, it's just that it hasn't been 16 sued by OCs and MCs. This is a document uploaded on 17 Smart Tender; is that correct? 18 MR WONG SE KING: We uploaded our tender assessment report. 19 MR VICTOR DAWES: What about this document? Is it uploaded 20 by the contractor? 21 MR WONG SE KING: Not necessarily. But our report, 22 definitely, we provide a report which is uploaded on to 23 Smart Tender. 24 MR VICTOR DAWES: Not necessarily this one. 25 MR WONG SE KING: We upload a few documents, so one tender</p>

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<p>1 document. Every report, including PAR1, PAR2, we upload 2 them. We also upload contractors' report or 3 consultants' report. 4 MR VICTOR DAWES: This is a document that you received. 5 Let's not talk about whether it was uploaded. Did you 6 receive this document? 7 MR WONG SE KING: Not necessarily. This document was 8 submitted to the consultant. And for the report, it 9 might not be attached to the report. Even if it has 10 been attached to the report, we may have read it, but we 11 don't have the resources to check its veracity. 12 MR VICTOR DAWES: This document was provided to us by the 13 URA. We obtained it from the URA. So we assumed -- 14 MR WONG SE KING: Yes. From the Wang Fuk Court incident. 15 MR VICTOR DAWES: When you receive such documents, do you 16 read these documents? 17 MR WONG SE KING: We may not necessarily read all of the 18 documents. 19 MR VICTOR DAWES: When contractor submits this document -- 20 MR WONG SE KING: We trust the assessment conducted by the 21 consultant; that is the mechanism of the Smart Tender 22 system. 23 MR VICTOR DAWES: In other words, when there are serious 24 issues, for example, it is not the case that there is no 25 legal proceedings --</p>	<p>1 the submission of the tender you filed legal proceedings 2 or other prosecutions, totalling 108. Most of them were 3 related to labour offences. 4 Please refer to E1-1/932. And you came to realise 5 these papers afterwards? 6 MR WONG SE KING: Correct. 7 MR VICTOR DAWES: I understand this has to do with resources 8 and your practice. In other words, you completely 9 relied on the consultant, so you didn't do so. In your 10 witness statement paragraph 76, you say so. 11 Page 2221. Let's look at the fourth line: 12 "However, I was not aware of any records of publicly 13 verified convictions for Prestige. Private service 14 providers may offer paid services, but I cannot be sure 15 whether such records are accurate. I have no knowledge 16 over whether there are reliable market sources on 17 a complete prosecution and conviction record for 18 construction sector service providers. Therefore, at 19 that time, I did not pay attention to whether other 20 tenderers for the Wang Fuk Court project provided false 21 information on prosecution or conviction." 22 To be fair to you, can I put it this way. Your 23 usual practice is not to check for these records because 24 the work is left to the consultant. I get it. 25 But here you seem to suggest something different.</p>
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<p>1 MR WONG SE KING: Will Power has the responsibility to 2 declare this. 3 MR VICTOR DAWES: I understand. We didn't say Will Power 4 don't have responsibility. I just want to see if you, 5 having received these documents, would look at them. 6 MR WONG SE KING: Right. 7 MR VICTOR DAWES: In this tendering, contractor engaged the 8 same solicitor firms. Let's take a look at page 904. 9 The wording is a little bit different. We can see 10 firms of architect. I believe you are not in a position 11 to help us here. Will Power analysed suspected 12 corruption, bid-rigging, as well as other records. We 13 saw some analyses. E1-4, page 8982. 14 We see a few ticks next to some companies suspected 15 of bid-rigging, corruption or other records, and we also 16 saw sources of news articles. Let's take a look at 17 page 8990. These are the news reports that have been 18 referenced. 19 Next let's move on to page 8988. There is an 20 engineering company, in Chinese (Chinese spoken), and 21 for that assessment, the score is zero for this 22 engineering company. You can see in Chinese the company 23 is (Chinese spoken). 24 Paragraph 76. After the blaze, you engaged a lawyer 25 to check the record of PC&E. It is found that before</p>	<p>1 You hired a lawyer to do the search for you and then you 2 say you cannot be sure whether there are reliable 3 sources that give you an accurate picture of whether 4 those contractors have conviction records. And then you 5 say: 6 "Therefore, at that time, I did not pay attention to 7 whether other tenderers of the Wang Fuk Court project 8 provided false information on their prosecution or 9 conviction records." 10 So first you say it provides a reason for why you 11 don't do the checks. Let's look at whether this is 12 a good reason. You say, "There is no accurate way. 13 There is no way to secure reliable information, so we 14 don't do the checking." 15 MR WONG SE KING: At that time we came across the litigation 16 records and then we hired a law firm to do the search. 17 The results were not all about sentencing. There were 18 separate records for civil litigation and criminal 19 litigation. For criminal records, we had to turn to the 20 police. I don't have enough legal knowledge to tell 21 whether the sentence records were accurate. It was hard 22 for us to tell how many convictions there were for a 23 particular company and whether those convictions were a 24 material factor for an OC to decide whether to award 25 a contract to that company.</p>

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<p>1 MR VICTOR DAWES: After the Wang Fuk Court fire, you hired a 2 law firm to do the search and then you formed this 3 impression. That's one thing. But my question is, 4 before this fire, you did not do the check. Why? 5 MR WONG SE KING: We relied on the consultant. So that was 6 the reason. 7 MR VICTOR DAWES: So the reason wasn't that you couldn't 8 find accurate information? 9 MR WONG SE KING: Correct. 10 MR VICTOR DAWES: So this is in hindsight? 11 MR WONG SE KING: Not really in hindsight. We can try to do 12 it ourselves, but it turns out that it wasn't accurate. 13 MR VICTOR DAWES: So you're saying, looking back now, doing 14 a check wasn't that easy. 15 MR WONG SE KING: Right. 16 MR VICTOR DAWES: So it's not like back then you tried, the 17 results weren't all that accurate, so you left it to the 18 consultant? 19 MR WONG SE KING: Right. 20 MR VICTOR DAWES: If you couldn't do it, the consultant 21 couldn't do it either. 22 MR WONG SE KING: So we would trust the consultant. 23 MR VICTOR DAWES: I understand resources were an issue. The 24 Labour Department, the ICAC, the Competition Commission 25 and even the Disciplinary Board of the Buildings</p>	<p>1 explanation of the Urban Renewal Building Rehabilitation 2 Subsidy. Someone said if there was a delay in the 3 building repair and there was a delay in the completion 4 date, the URA may dock part of the subsidy. So 5 residents may end up with just 80 per cent of the 6 original amount. So residents were asked not to 7 overthrow the old management committee; is that correct? 8 MR WONG SE KING: That's wrong. 9 MR VICTOR DAWES: Why? 10 MR WONG SE KING: If there is serious delay, we revoke the 11 subsidy directly. We do not dock part of the subsidy. 12 We issue the subsidy for one purpose, that housing 13 estate has completed the eligible item and then we issue 14 the subsidy. Our independent consultant assesses the 15 situation: have the eligible items been completed? If 16 yes, then we follow the subsidy scheme. We dispense or 17 disburse the subsidy. We don't just dock part of the 18 subsidy for a delay. 19 MR VICTOR DAWES: We have information suggesting that in 20 this dispute over the new management committee, the 21 Tai Po district councillor Ms Peggy Wong said something 22 like this, but this is not the case. 23 MR WONG SE KING: Right. 24 MR VICTOR DAWES: Chairman, I have no other questions. 25 MR WONG SE KING: Chairman, I have something to add.</p>
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<p>1 Department made these conviction records public. You 2 know it now? 3 MR WONG SE KING: I do. 4 MR VICTOR DAWES: So if you look for them you can find them? 5 MR WONG SE KING: We can find them. 6 MR VICTOR DAWES: Got it. You feel that you don't have the 7 resources for that. 8 MR WONG SE KING: Right. 9 MR VICTOR DAWES: I don't want to dwell on this because we 10 have covered this with the other witnesses already. 11 Before the OC elected the contractor in the case of 12 Wang Fuk Court, the URA received inquiries from the 13 property management office of Wang Fuk Court. So 14 Prestige had disciplinary records, their licence may be 15 on the line. The URA did not follow up on the 16 conviction records of Prestige. Do you agree? 17 MR WONG SE KING: On the issue of the licence, Mr Chan 18 discussed that this morning. We did not follow up on 19 the conviction records. 20 MR VICTOR DAWES: And the reason, as you said, was that 21 resources and also the usual practice, those were the 22 factors. 23 MR WONG SE KING: Correct. 24 MR VICTOR DAWES: Finally I need your assistance on 25 something else. There were some recordings. It was the</p>	<p>1 THE HON MR JUSTICE DAVID LOK: Please go ahead. 2 MR WONG SE KING: We're in 2026. Smart Tender was rolled 3 out in 2016. When we look back from now, I agree there 4 are inadequacies. 5 Over the past 10 years, the URA worked tirelessly as 6 a facilitator. For this instrument from Will Power, we 7 have seen quality, or rather varying quality in the 8 submissions from different contractors, so back in 2020 9 we hired a legal team to draft templates. There were 18 10 such templates. We consulted 22 professional bodies and 11 those templates were launched in 2022. 12 As Mr Wai Chi Sing, our former CEO, said, we wanted 13 to institutionalise and regularise and standardise the 14 entire tendering process. 15 Our requirements are rigorous. We have a box 16 specifically for receiving tender documents. We have 17 also adopted software from the logistics sector. We 18 keep track of the check-in and check-out. We have 19 round-the-clock security to make sure that every 20 tenderer that came in will be accounted for. 21 Now, on the pre-qualified list, we did not compile 22 the pre-qualified list or the enhanced version just 23 because of the fire. We had a roadmap. We wanted to 24 enhance the integrity of the list for Smart Tender. We 25 are aware of the public concerns about prices. That's</p>

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<p>1 why we hired quantity surveyors. In 2021 there was a 2 cross-referencing letter setting out the rate broken 3 down into 25 items over the years since 2009. 4 There are still many things we cannot do. We cannot 5 do anything about collusion. We cannot check if 6 consultant A is colluding with contractor B. At this 7 point, we don't have the ability to cover that, but 8 that's not to say we're not doing anything. 9 In our future, enhanced Smart Tender, we will have 10 an enhanced pre-qualified list. With the cooperation of 11 other departments, we will be able to strengthen the 12 system's integrity. 13 In vetting tenderers, there are also problems. This 14 is where collusion easily happens. So in the future, 15 enhanced version of the Smart Tender system, the URA 16 will be vetting the tenderers. The URA will 17 continuously improve its work, and for this incident we 18 send our condolences to the residents of Wang Fuk Court. 19 We are willing to listen to any criticism and also 20 suggestions for the new Smart Tender system. Before the 21 launch of Smart Tender, the renovation market was 22 chaotic. We want to move from chaos to order. We want 23 to achieve prosperity from stability with the enhanced 24 version of Smart Tender. We have the resolve. We want 25 to bring order to this renovation market. Thank you.</p>	<p>1 and what can we not accomplish with the enhanced Smart 2 Tender system? 3 MR WONG SE KING: The enhanced version of Smart Tender will 4 cover two aspects. First, a pre-qualified list based on 5 background screening. As the Secretary for Development 6 said, there will be a background screening to be done by 7 the police and the ICAC. Contractors passing the 8 background screening can make it to the pre-qualified 9 list. This is to ensure integrity. That's not to say 10 that a contractor on the list will be all good. We will 11 also talk to law enforcement agencies regularly to make 12 sure there are no criminal convictions down the road. 13 Smart Tender will assist with tendering. In the 14 future we will also get involved in the vetting of 15 tenders. This is also an area prone to shady practice, 16 so in the future there will be a team at the URA to vet 17 the tenders. 18 In Wang Fuk Court there were 57 tenders. In the 19 future we will go through all 57 tenders. In the past 20 we relied on Will Power, but in the future we will take 21 matters into our own hands. We will look at the tenders 22 and then we recommend three tenders to the residents. 23 These are the things we hope we can achieve, but 24 there are things we cannot achieve. First, we will have 25 no control over improper behaviour involving the flat</p>
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<p>1 Questioning by THE MEMBERS 2 THE HON MR JUSTICE DAVID LOK: Mr Wong, my impression is 3 that the URA is misunderstood. The role is unclear. It 4 does not have a duty to investigate cases proactively. 5 It works with finite resources. I find that 6 understandable. But the problem is you have Smart 7 Tender. People assume things will be sorted out with 8 Smart Tender. And when you cannot deliver that, the 9 public will see a gap between reality and their 10 expectations. So that's what we would like you to do 11 better. Indeed, there are things that can be done in a 12 better way. I understand you have your struggles. So 13 let's focus on the future. 14 MR WONG SE KING: I agree. 15 THE HON MR JUSTICE DAVID LOK: So after this fire, people 16 hope that you can sort things out, and there will be 17 high expectations for Smart Tender. We don't want to 18 see cases where resource constraints prevent improvement 19 down the road, so for the future. I know it's a tough 20 question for you to answer. 21 MR WONG SE KING: I will try my best. 22 THE HON MR JUSTICE DAVID LOK: So for the future, the most 23 important thing is to prevent such tragedies from 24 happening again. We want to prevent bid-rigging. So 25 what's your view on the future? What can we accomplish</p>	<p>1 owners and the OC and we cannot control what happens to 2 proxy votes. We cannot control that. What we can 3 pledge is to make things harder for criminals, but I 4 want to stress this message. We cannot guarantee that 5 there will be absolutely zero collusion. We have the 6 finest police force in Hong Kong, but they cannot 7 prevent crime in an absolute way. What we can do is to 8 make life harder for criminals so that legitimate 9 contractors can get projects. 10 When vetting tenders and awarding contracts are done 11 by the URA, that leaves less room for manipulation. So 12 we will make life harder for criminals so we hope that 13 Smart Tender can sort things out for people. Still, the 14 URA faces constraints. We have no control over flat 15 owners. We have no control over proxies. 16 THE HON MR JUSTICE DAVID LOK: Indeed, it's about private 17 property. 18 MR WONG SE KING: Right. 19 THE HON MR JUSTICE DAVID LOK: Flat owners make the final 20 decision; you cannot influence them. But are there 21 other things that can give us confidence that we can 22 reduce the risk. 23 MR WONG SE KING: We can reduce bid-rigging, but we cannot 24 root it out. I don't want to give a promise here 25 because we may not be able to deliver on this. We will</p>

1 show the greatest resolve. We commit as many resources
2 as we can. We want to live up to the public
3 expectation. We hope that we can get this chance to try
4 to get this done.
5 THE HON MR JUSTICE DAVID LOK: Be careful with that promise.
6 Many people are listening to what you're saying.
7 MR WONG SE KING: We will do our best.
8 THE HON MR JUSTICE DAVID LOK: Questions from other parties?
9 MR MIKE LUI: No questions from me.
10 THE HON MR JUSTICE DAVID LOK: No re-examination?
11 If not, thank you, Mr Wong. Thank you for your
12 time.
13 (The witness was released)
14 (4.16 pm)
15 THE HON MR JUSTICE DAVID LOK: I hope that we can root out
16 this problem in the future.
17 So we are done today. The next hearing will be on
18 Wednesday.
19 MR VICTOR DAWES: So we will hear from the Independent
20 Checking Unit next week.
21 THE HON MR JUSTICE DAVID LOK: So that's 10.00 am on next
22 Wednesday.
23 (4.17 pm)
24 (The hearing adjourned until 10.00 am
25 on Wednesday, 6 May 2026)