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2016年3月16日

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上午10時02分恢復聆訊

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出席人士：石永泰資深大律師、許偉強大律師及鄭欣琪大律師，為外聘律師，代表食水含鉛超標調查委員會

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李柱銘資深大律師、吳思諾大律師及吳宗鑾大律師，由何謝韋、李偉業律師事務所延聘，代表啟晴邨及葵聯二邨公屋居民代表 Lee Pui Yi、Chong So Nga 及 Lui Hui Ping

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Mr. Ian Pennicott 資深大律師及林定韻大律師，由孖士打律師行延聘，代表中國建築工程（香港）有限公司

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李頌然大律師，由顧增海律師行延聘，代表有利建築有限公司、明合有限公司及伍克明

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何沛謙資深大律師及殷志明大律師，由羅夏信律師事務所延聘，代表香港房屋委員會

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王鳴峰資深大律師及陳樂信大律師，由律政司延聘，代表水務署署長

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許佐賓大律師，由的近律師行延聘，代表保華建築營造有限公司

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孖士打律師行陳宇文律師，代表瑞安承建有限公司

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李柱銘先生：主席、委員。

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主席：係。

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李柱銘先生：我哋啲古人真係好嘢。即係中華民族係一個偉大嘅民族，因為喺公元 577 至 581 嗰個時候，喺北周有個文學家叫做庾信，佢就講咗句說話，佢話「君子飲其流懷其源」，後來就變為「飲水思源」。當然呢個「源」，如果係用「金」字邊寫，喺今日嚟講就好適宜。係有一位先生--我有一個同行，行家係首先同我講嘅，就係「飲水思源」。因為佢聽到我做緊呢件調查嘅時候，有份做大律師，佢就畀咗呢四個字我。

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我亦希望係水務署，將來呢本本子係希望佢跟住我哋嘅睇法，即係其實佢係有好多誤導成分喺度。希望佢再出一個本子嘅時候，就唔使咁長，唔使香港啲食水供應--減低食水含鉛咁長，就係飲水思源得嘞，咁所有香港市民就小心嘞。

主席，其實聽咗咁多證供，去到呢個我哋臨尾嘅時候，有一個好多香港人想知嘅問題都係唔知，就係究竟我哋所有咁多公屋裏面，邊個邨、邊一座樓宇係真係可以話畀香港人聽「你哋係唔使擔心，你哋啲水喉開出嚟嘅水，或者廚房擺嚟將來飲，或者煮嘢嘅水係安全，冇含鉛嘅。」到而家為止，其實係唔知嘅，呢個答案我相信好多香港人最想知道嘅答案係有嘅。

當然而家你哋要調查嘅，嗰個有三個目標嘅，但係第一個淨係查公屋。但係你第三個，你就要向行政長官就要畀意見，就係就香港食水安全提出建議。所以我希望你哋係睇你哋嘅職權範圍嘅時候，用一個廣泛啲嘅角度睇。所以雖然呢個調查係冇包括私樓，譬如學校啲啲，冇嚟啲有嘅，但係我希望你哋建議嘅時候--第三個建議嘅時候，係可以係講埋呢一方面。

主席：可以講埋私樓、...

李柱銘先生：譬如學校。

主席：...學校。

李柱銘先生：係，醫院啲啲。

主席：唔。

李柱銘先生：呢啲因為同好多市民係直接有關係嘅。

我又想講一講，一開頭我哋個政務司司長，當佢開個跨部門會議嘅時候，係同大家講，佢話用三個原則係處理呢個鉛水超標嘅問題，就「公開透明」、「以人為本」、「全面徹查」。我相信好多香港人都覺得佢三樣都做唔到，尤其是全面徹查就更加不足。因為如果全面徹查，又點會到而家為止，我哋都唔可以知道咁多公屋裏面邊一座係真係話畀人聽「你安全嘅。」

而家政府就話十一座公屋係有受--有叫做 affected，即係有影響嘅，有影響嘅公屋就係十一個屋邨。有影響係十一個，咁仲有百幾個，即係有嘅，有影響嘅，唔使擔心，但係邊個敢話呢？你睇下佢哋

嘅做法，係，房署嗰度就用一個好 conservative，好保守嘅方法處理呢個問題，呢個係好事嚟嘅。即係話求其有一個屋邨，如果任何一個樓宇裏面一個單位，一個水喉擺出一個水辦係超過佢哋認為嘅世衛嗰個標準，即係每公升係 10 個微克嘅標準，佢哋就當成個邨都係被影響，咁係好嘅。水務署就話「噏，呢個唔關我事，係房署定嘅。」但係好明顯水務署亦知道房署係用呢個標準。

咁問題就係驗水，呢個就帶入去對我哋嚟講，係一個全個聆訊可以話最關鍵性其中嘅一個問題，如果唔係最重要嘅問題。因為大家都知道，一早就知道嚟嘞，嗰個 task force 就知道。第一個會係舊年 7 月 17 號開過會，已經知道嚟嘞，如果你抽水辦，唔同抽嘅水辦，係有唔同嘅結果嘅。如果你抽隔夜水嘅水辦，好明嗰個含鉛嘅質就會高好多。如果你係沖咗嘅水，然後至擺水辦，佢知道差唔多 0 嘅，應該係 0 嘅，咁早已經知道嚟嘞。

同埋，佢哋嗰陣時個決定就兩個都要做嘅。好呀，呢個決定係完全合乎邏輯。但係點解去到尾嘅時候，淨係擺呢兩個唔同水辦，抽到嘅唔同嘅驗--驗出嚟唔同結果，點解淨係擺嚟淨係話畀市民聽--喺呢本本子度就話「你要沖水，沖咗佢兩分至五分鐘，咁就安全。」點解呢？另外嗰個就係畀佢知道究竟有幾多屋邨，係公屋邨裏面有幾多樓宇可能係含鉛超標，而令到嗰啲居民，尤其是啲小童係健康有大問題，呢個問題係完全冇解決嘅。咁點樣可以合乎全面徹查呢個原則呢？

律政司司長係好--一開頭係啱嘅，佢嘅態度完全好嘅，佢開呢個記者招待會嘅時候係講得好清楚，喺呢個本子都有寫出嚟。佢就話喺呢個跨部門會議，喺 7 月 11 日啟動。而家呢個本子嘅第 10 版，「並作出重要後繼工作和相關措施嘅決定」，非常正面、非常負責，但係點解突然間冇晒聲氣。

其實呢個 task force 佢第一個會議裏面已經講到有爭議性嘅，呢個問題有 controversy，所以佢至決定用兩個水辦。既然有爭議性，爭議性喺邊度呢？正正就係市民就話「喂，如果你驗隔夜水，就高好多個喎。」因為普通市民都知道一沖，沖完之後，就梗係冇咁高，大家都知道呢件事嘅，所以就逼佢「點解你唔抽隔夜水呢？」咁佢一路都唔抽，一路都唔抽。同埋呢個決定唔可能係陳健民一個人決定，唔可能嘅，我哋呢個政府--雖然話好多人點樣鬧呢個政府都好，但係唔可能一個咁大嘅政府係准呢個一個人嘅意見，就完全係佢哋唔敢出聲，唔同意見都唔敢講。

同埋，陳健民先生佢自己形容自己係一個小嘅薯仔，細嘅薯仔，

small potato，同埋一個退休咗嘅。一個咁大嘅政府，點會畀一個退休咗嘅小薯仔嚟作出呢個咁嘅決定，而影響咁多人，同埋喺呢件事，係一個咁重要嘅一個決定。所以佢越堅持--水務署越堅持，係佢一個個人嘅決定，同埋佢係一個專業嘅決定，我哋就不能不覺得佢一定唔係。

同埋，其實房署嗰度，嗰個 Ada Chan 其實佢都有講--Ada Fung，sorry，太多人姓陳嘞。Ada Fung 佢都講得好清楚嘅，佢話--當我問佢，我話「點解要堅持五分鐘後至驗呢？」因為嗰陣時我以為五分鐘，我唔知道原來五分鐘係另外一啲樓宇，即係兩分鐘係普通嘅。咁佢其中一個就答，佢話「首先，我哋嘅常任秘書長就有--嗰陣時就去驗水嘅時候，就有好緊密咁樣同水務署署長，甚至喺政府化驗所等等，就一齊去進行呢啲探討嘅工作。跟住其實成個政府，包括政務司司長同埋有關嘅局長，同埋署長，同埋常任秘書長都坐埋一齊，都有傾過呢一個課題。」所以同水務署所講嘅完全係唔同。頭先我讀出嚟嗰度，喺我哋個陳詞 29 段有啲嘞，所以我唔想--畀一畀個 reference 啫。

既然係如果成個政府都有跟住呢件事做嘅，咁點解去到今日為止，當你哋委員會搵咗兩個專家寫咗一個臨時嘅報告，咁清楚係話「一定要驗隔夜水嘅。」一定要驗埋隔夜水起碼都要，而家都唔聽、唔睬。

同埋，主席，如果你容許我用番你一句，你不黠咁問佢哋「點解唔可以行多一步？」因為你就算你點樣有理據都好，就算陳健民佢自己信自己啱晒，而政府各部門個個人都覺得佢啱，咁你行多一步有咩嘢問題呢？既然一開頭呢個爭議性嘅問題就已經喺度嘅時候，佢哋又想解決嘅時候，而且唔會咗佢時候嘅，因為你橫掂你都要沖完至驗，點解唔沖嘅時候去驗呢？一開咪驗囉，跟住咪再驗，點解唔得呢？咁佢又話「啊，煩到人㗎，唔係咁多人肯。」

咁我而家臨到呢個時候，我明囉嗚。佢哋應該叻過我嘅，應該都明嘅，唔係一定要隔夜水㗎嘛，stagnation 都得㗎嘛，stagnation，即係你下晝五點半入去都得㗎嘛，求其煮晚飯前，你咪去驗囉，嗰個時間完全冇問題個嗚。我哋而家至諗到啫，但係佢哋冇理由一早唔諗到，嗰啲專家嚟㗎嘛。所以根本係完全冇問題嘅，係一個咁容易做嘅，而且唔會咗個時候嘅，而且咁有爭議性，一早講出嚟嘅，而且佢哋自己都覺得 task force 都話應該一早要做嘅，點解到到而家都肯做？啲專家又畀晒意見，都唔肯做，成日搵個 ISO 5667-5，嗰個唔係咁解㗎嘛，我都唔想再花你時候，大家睇咗咁多次，係咪？

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如果你驗普通嘅水質，係，你咪沖咗至驗囉，但係唔係咁嘛，我哋知道普通嘅水質係一流嘅，佢畀自己 100 分都得，但係我哋大家知道入到去個樓宇裏面就有問題。而家佢自己沖咗兩分鐘，甚至五分鐘，都有所謂超世衛個標嘅，係咪？即係肯定有問題。咁點解到而家都唔肯處理？所以就唔係因為佢哋信咗陳健民，而係一個政府嘅高層各部門，一定係作出一個好堅定嘅決定，就係「我哋唔要呢個隔夜水嘅水辦。」因為係人都知道一擺咗嗰啲水辦，就唔係十一個屋邨，唔知多幾多個嚟嘞，咁嗰啲錢點搞呢？

陳漢輝先生就話咗，佢認為呢個係好 conservative 嘅，好保守嘅做法，就係你有一個水喉出水有問題，就成個屋邨。係，我哋可以另尋方法嚟嘛。佢應該就做咗佢應該做嘅嘢，就係一開頭佢既然佢知，就兩個水辦都去驗，驗完之後，原來發現好多屋邨都有，咁點搞呢？咁你唔好用房署而家呢個做法囉，就係有一個水辦有問題，我都成個屋邨話受影響，你咪從長作計，慢慢大家傾。呢啲係完全冇人可以話如果--學而家房署咁決定，一個水喉唔得，就成個屋邨嚟嘛，係咪？

主席：但係喺嗰陣時咁短時間，你唔可以從長計議去決定？

李柱銘先生：唔係，咁到而家都未遲個嗎，主席，我同你講即係而家都未遲。

主席：係。

李柱銘先生：因為佢應該做嘅嘢，佢冇做到，所以而家搞到咁嘅問題出現。但係你哋寫報告嘅時候，如果你唔介意，你覺得如果你同意呢個睇法，其實佢而家應該做佢當時應該做嘅嘢，係咪？

主席：因為我睇過--我重新再去睇過 Prof Bellinger 嘅報告，咁其實佢裏面提到呢個美國個 CDC 嗰個點樣決定，其實都有值得參考嘅地方。因為美國嗰陣時最初就用一個叫做 action level，後來就改咗叫做 reference level，咁就根據佢哋個 reference level，譬如去到邊一個--statistical 去到幾多個 percentile 先至有政府要做，都可能係一個可以考慮嘅方案嚟嘅。

李柱銘先生：係，呢個係一個其中一個好方案，我相信亦有其他方案，咁睇下--我哋等政府就要搵一個最適合香港情況嘅方案嚟解決呢個問題。所以我唔...

主席：不過如果你即係呢啲咁樣嘅方案，唔係一時三刻可以即係出籠個

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C 嗶咁。

D 李柱銘先生：係，我同意。

E 主席：唔，唔。

F 李柱銘先生：咁所以佢先--所以我有啲瘡，就係佢到到而家都好似唔理，
G 又死到唔肯驗。咁你而家死都唔肯驗，你就永遠唔知道個實際個惡劣
H 個情況喺邊度，你又冇法子定位，冇法子決定應該用咩嘢方法嚟解
I 決。但係你驗咗先，如果你有晒啲數據喺度，容易，呢步已經喺度，
J 咁你知道原來好多個屋邨個嗶，甚至私樓都有個嗶，好多個嗶。

K 另外一個方法，呢個就係我已經開始問個題目嗰陣時，一早有問
L 過，就係話係用嗰啲 orthophosphate 嗰個方法，就嗰個正磷酸鹽
M 呢個方法；或者就陳漢輝先生佢就話用一個矽酸鹽，silicate 呢個
N 方法，大家我相信個效果一樣嘅，就係你用咗之後，變咗喺個水喉裏
O 面，就係另外有一個內喉，就用呢啲咁嘅--佢自己會成立咗一個
P 喇。咁變咗個內喉亦相當穩陣嘅，咁變咗出面就算漏水，裏面都唔漏
Q 嘅，你可以用呢個方法解決個嗶。當然係要費用嘅問題，咁呢啲如果
R 政府化驗，點都係好多錢要使喇嘞，咁呢個方法其中一個可以考慮嘅
S 方法，只係咁啫。當然有--我哋唔會話係用邊一間公司，唔可能決定
T 嘅，當然佢哋要投標嘅，得唔得，佢哋可以實驗，咪試下實驗囉，係
U 咪？

V 所以呢啲係--因為我哋而家應該係高啲層次睇呢個問題。政府應
該做嘅嘢，但係冇做到，所以我希望委員會就提出一個保貴嘅意見，
等政府去考慮成盤計劃，重新考慮。其實佢應該做到嘅嘢，佢就有做，
但係而家遲，都仲好過唔做。同埋呢個問題要解決係困難，我知道，
但係如果大家跟住呢個方向去，主席，我相信係大家都可以完成呢個
任務。

但係睇番而家呢個水務署做到而家為止，其實我一路都懷疑，奇
怪，點解沖咗兩分鐘仲會有嗰啲超標咁高嘅水辦出現呢？後來經過盤
問之後，而家大家清楚嘞，尤其是 Prof Fawell 講，係佢認為最可
能嘅原因就係有啲鉛粒子喺嗰啲水辦裏面。因為你一沖，然後佢先去
驗嘅時候，佢開大水喉，或者沖沖，就沖咗兩分鐘，呢啲咁嘅鉛粒子
出現。

我哋又好細心睇過啲證供，係原來佢哋驗嘅時候，攞啲水辦去驗
嘅時候，係要用啲酸嘅，用 acid 嘅。Prof Fawell 佢用 acid
digestion，頭頭我睇以為入咗個腸胃裏面嗰啲，原來佢唔係，佢呢

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個 digestion 嘅意思，即係攞啲水辦去驗嘅時候，係加啲酸落去，咁當然所有呢啲鉛粒子就會溶咗佢，咁然後就驗出嚟。咁就後來 Prof Lee 就講 ICP-MS，佢係用呢個方法嘅，用呢個過程嘅，咁我當然唔知呢個係乜嘢，ICP-MS。

所以大家睇番轉頭，就呢個係我相信係最合邏輯嘅睇法。Prof Fawell 亦好 fair，佢話「噏，如果任何人有另外一個睇法，即管提出嚟，大家考慮下。」即係佢哋認為係呢個最大嘅原因。咁我完全唔識化學嘅，我一早都覺得「噏，點解咁呢？」後來我都諗到係可能係原粒子，所以大家都有提出嚟問。

但係咁呢個就引起另外一個問題，就係政府亦睇到--我用政府，其實水務署攞一啲水辦去驗嘅時候，佢有啲水辦，有啲屋邨裏面係有咗超呢個世衛標所謂嘅水辦，但係佢仍然係有嘅。另外一條邨--即係有兩條邨係驗到有水辦係超標嘅，但係到而家都仲係--一個怡明邨同埋葵涌邨，佢有啲超標嘅。仲有彩達--彩德邨，...

主席：彩德。

李柱銘先生：...同埋水泉澳邨，呢啲都有，但係佢都係冇將呢啲邨係列為受影響嘅，呢個喺我哋個陳詞 82、83、84、85 嗰度有講。至於怡明同埋葵涌，就 Prof Lee 都證明係有超標，但係到而家為止，都唔係屬於係受影響嘅屋邨嚟嘅。

另外一個大問題，我哋 88 段講嘅，就係有啲話不受影響嘅，而且係 2005 年之後起，有一百零二個水辦係冇宣布出嚟，或者係掉咗去，唔知咩嘢理由。咁啲啲水辦喺邊個屋邨攞得嚟呢，我哋唔知。有咩嘢理由掉咗佢呢，我哋唔知。

至於啲啲所謂不受影響嘅公屋嘅屋邨，係 2005 年之後至建築完成嘅，亦有九個咁嘅水辦--喺之前，係之前，2005 年之前嘅亦有九個水辦，又係掉咗佢，撙咗佢，或者係冇公布嘅。至於咩嘢理由，我哋唔知。

但係反而係有一個例子，我哋 91 段有講嘅，就係有影響嘅屋邨裏面，佢哋有一個石硤尾邨嗰度，佢就話發現有一個能夠睇得到嘅黑色嘅粒子喺度，咁佢哋就發現話呢個唔正常，咁佢哋諗住就話「可能係受到呢個環境污染所影響。」佢哋估㗎咋嘞，呢個係我哋 91 段提出嘅。

但係如果你睇到 Prof Fawell 而家嘅口供，大家應該接受佢嘅

睇法。因為有第二個理由，就係唔係話環境污染呢啲，而係就係因為呢啲咁嘅鉛粒子嘅問題。咁就大件事嘞，即係有啲鉛粒子如果你熔咗佢，擺去驗，就會超標。一百零二個就攞咗佢，跟住九個，又攞咗佢，咁即係一百一十一個攞咗，究竟有影響幾多屋邨呢？我哋又唔知道，呢個係一個好大件事嚟嘅，點解會咁做呢？

所以當我哋睇到政府個態度，睇到呢啲水辦被政府點樣處理，我哋睇到呢啲咁嘅證據，我哋肯定有合理嘅——係有理由相信，呢一個決定，呢個唔驗隔水或者 stagnation 嘅水呢個決定，唔可能係陳健民自己一個嘅科學上專業嘅決定，或者係佢嘅信念，令到佢作出呢個決定，唔可能。而係政府唔想知道其實真真正正呢個情況有幾壞，佢唔想知道，所以變咗係含鉛嘅水佢唔會擺去驗，佢思疑，佢可能懷疑最有機會係含鉛超標嘅水唔擺去做水辦，呢個決定肯定係高層，我唔知高到點。但係呢個跨部門委員會有理由唔知，有理由呢個決定可以唔關佢嘅事，甚至更加高都可能。

今年係猴年，我相信嚟好高好高層，呢個政府個架構裏面，有三隻猴子，我唔會講名，唔想睇、唔想聽、唔想問，所以作出呢個決定。咁就係因為咁樣，而家你哋委員會係呢個問題係一定要處理，而家唔係話政治上邊個負責嘅問題，呢個唔係委員會要調查；又唔話民事控訴邊個要預飛，呢個唔係你哋要調查，但係你應該知道，如果政府採取咁嘅立場，咁我哋可以點做呢？當然你哋只能夠做你哋認為應該做嘅嘢，寫出嚟，佢做唔做佢嘅事，而我係完全相信你兩位呢係行緊呢條路。

咁我哋而家我哋呢個陳詞，絕大嘅篇幅都係對水務署，但係唔等如我哋對其他嘅有關嘅人物或者部門係接受佢哋所做，係做得好嘅，因為我哋就用咗好少篇幅。譬如房署嗰啲，佢有理由唔知。同理建築商、承建商、LP，嗰啲大家都會某一個程度上係要負責，佢哋有理由唔知。

但係我聽到呢啲咁多證供，我就有一個咁嘅睇法，而家大家都知道最大嘅近因，有啲遠因嚟嘛，有近因，最大個近因就好明顯就係用咗嗰啲含鉛嘅焊物，就用喺啲水喉嗰度，咁就發生呢個，呢個大家都知道。但係譬如話嗰啲 component 係點呢？嗰啲物件係點呢？呢個唔可以忽略嘅，因為大家都唔知道究竟會構成幾多嘅含鉛分子喺水裏面，就算有用嗰啲含鉛嘅焊物。

我哋呢個——頭先講緊呢個就近因，但係有遠因個啲，我哋唔可以唔睇埋啲遠因。遠因就係長期，長期都唔知幾多年以嚟，我哋個政府

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都採取個態度就係「唔會有事發生嘅，我哋已經做足我哋所做嘅嘢喇嘍。喺，我哋有英國標準喇，...」

主席：你講水務署啫，係咪又係都？都係返番水務署啫？

李柱銘先生：係嘞，係。但係你政府係有個整體嘅責任，你睇住水務署嗰啲，水務署啲人睇住㗎嘛。咁因乜理由係將呢個責任交晒畀嗰啲 AP 或者 LP 嗰度呢？有咩嘢理由淨係靠幾個 form 就搞掂呢？係完全係冇查，完全冇告過任何人，因為用咗啲含鉛嘅材料。大家知道法律上係唔可以用嘅，佢用咗英國嘅標準係好嘅，但係你點可以話肯定個市面上冇人用呢？

因為老實講，我諗唔到點解喺香港，喺咁嘅情況下，係冇人係故意用含鉛嘅焊料去做焊呢啲水喉，點解唔做啫？平、靚、正啲。平，又快啲，點解呢啲唔做啫？仲有一樣，係冇人理個啲，當你知就係違規--我諗佢諗唔到犯法個啲，可能違規，唔應該，咁呀點啫，個個都做。咁佢都做，我唔做，好蝕底個啲，我點樣投--如果係投標，投工程，我點同佢投啫，個個做？佢要平啲，我要貴啲，我冇理由咁傻個啲。

仲有，主席，而家唔係淨係呢幾個 LP 咁簡單，就算係起私樓嗰啲，起私樓嗰啲建築商可能有啲好好，佢哋真係唔想咁做，但係佢未必知道㗎嘛，去到最底下嗰度，佢 subcontract 幾次個啲可以，咁點知啫。所以而家好多證人上嚟話唔知，我唔相信佢哋唔知，問題就係知呀，做嘞，咁點啫，冇事㗎嘛。而家唔係隻貓一日、兩日偷懶，而家係大家知道呢隻貓根本就唔會捉老鼠，佢永遠唔捉個啲，一次都未試過。咁點解大家唔做呢？所以如果睇，你話佢業界好，點樣用都好，如果佢哋唔用呢啲平啲嘅焊料嚟做，就奇怪嘞真係，唔用至奇怪。咁所以你話香港有幾多呢？真係冇人知。上到嚟嗰啲，梗係多數梗係唔認㗎喇，但係都有認，你都聽到有人認。如果肯認嗰啲，又冇理由唔信佢哋。

咁就房署就已經係懲罰咗有四個鉛水承建商，我今日睇報紙。先一排我都有知道嘅，係禁止佢哋係投房署嘅工程嘅投標，禁止佢 8 個至 12 個月。原來有兩間已經恢復咗，舊年 11 月，瑞安已經畀佢投番。中建，就今年 1 月。我真係未--你哋都仲喺度研究緊，佢哋已經可以繼續投標，我都唔知呢啲係咩嘢處分㗎，咁嘅處分點會有人驚呢？

好嘞，水務署又話而家會扣分，嗰啲分嘅制度。但係嗰啲 LP 係最後去驗嘅時候，唔需要喺度個啲，扣分㗎咋啲，個人都唔需要喺度，

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我真係可以話莫名其妙。仲有，我又問過水務署，我都唔記得邊個證人，我問佢「咁你呢件事點樣處理呀？」佢話要問過嗰個業界，要問過業界點樣處罰佢咗，咁呢個乜嘢嘅執法嘅態度呀？同埋乜嘢嘅執法嘅思維呀？如果係佢咗繼續咁落去，真係我哋香港嘅水就真係唔知點搞。

可唔可以畀少少時候我睇一睇仲有漏咗咩嘢嘢？

所以去到你哋建議嘅時候，主席同埋委員，我哋都係--最後嗰個都係處理呢個問題。我相信其中一個最重要嘅推薦，就係要--如果係有關呢啲問題再出現嘅時候，係如果要驗水辦嘅時候，一定要係隔夜水，或者 stagnation，一定有。你其他驗，都有問題，但係一定要有。

咁就我哋亦建議係有一個 database，係數據庫，喺我哋第 141，呢個係驗血嘅數據庫。即係重金屬嘅，如果驗血嘅時候，就等政府係有一個--好容易有一啲足夠嘅資料。

主席：唔係，呢個你係咩嘢意思？

李柱銘先生：呢個即係普通，因為我哋唔可以成日都用呢個咁 intrusive 嘅方法，成日叫人去驗血，但係如果你驗開血嘅時候，就驗埋啲重金屬，咁剔一剔，好容易嘅啫。如果有，咁咪等政府知道，存咗落去，咁呢個係我聽到...

主席：即係你講 general 咁，好似我哋驗膽固醇咁樣樣？即係政府 collect 一個個血 sample？即係...

李柱銘先生：係，係啲啲收--即係其實就係收集全港醫院、診所嘅資料嘅一部分，呢個係可以--即係我哋覺得希望你哋可以考慮呢個建議。如果唔係，我哋永遠唔知。

黎先生：唔係好明你講咩嘢嘢？唔係好明你個建議係咩嘢？

李柱銘先生：哦。即係當啲人驗血嘅時候，係可以驗埋呢一樣。即係...

主席：順便驗埋佢。

李柱銘先生：...順便驗埋，即係剔一剔。唔係故意去驗，故意唔得嘍，唔可以咁樣。你有理由而家出咗事，就故意去驗。

主席：係。

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李柱銘先生：即係知道嘞，嗰啲細路仔要嘞，咁有啲孕婦要去喇。但係普通情況下，如果政府真係想知道呢啲嘢，係好容易，畀醫生剔一剔㗎咋嘛。咁驗完，擺喺證據，如果有，咁大家好好，大家都舒服囉；如果有，咁就容易處理。

主席：咁但係--我明你講咩嘢嘢。

李柱銘先生：呢個唔係可以即刻決定，因為要諮詢啲業界。呢啲真係要諮詢。

主席：係。唔係，但係個問題就係你--即係當然我哋而家今次話鉛，咁你有呢個咁嘅建議，我明白。但係其實香港其實有好多唔多嘅病㗎嘛，啱唔啱先？

李柱銘先生：係呀，係呀，係呀，係，係。

主席：咁你冇可能有個 database 係所有嘅嘢都驗㗎，...

李柱銘先生：其實呢個理由...

主席：...咁又唔係 make sense 個㗎。

李柱銘先生：係。我呢個建議就係因為我睇到政府而家處理呢件事嘅態度，佢就唔理嘅。如果佢繼續唔理，咁點搞呢？就係起碼喺另外一個角度畀啲資料佢至得個㗎，如果唔係，佢永遠都唔理，我就係驚呢下。如果佢理，就我覺得呢樣係唔需要嘅，如果佢真係好積極咁處理呢個問題。而家再去驗水，同埋佢有一個...

主席：我諗唔係嘅，我諗你某程度上要有啲 scientific basis 嘅。因為如果你跟番 Prof Bellinger 所講，我哋而家個 existing 個 care plan 係 adequate、係 sufficient 嘅話，實際上，你咁樣做就真係好咁錢，係咪？因為佢已經講咗，即係而家以我哋而家個--即係啲--嗰個 exposure 嗰個 level，其實唔係咁高嘅，acute toxicity 基本上可以話冇，唯一就係 chronic exposure，咁尤其是嗰啲 vulnerable 嗰幾個 groups。咁嗰啲喺呢一個階段，最主要都係 observation，除非你發覺佢有一啲--譬如佢嘅 development 係有啲問題，咁跟住你就可以再跟進 environmental assessment 諸如此類咁樣樣。

李柱銘先生：我明白主席嘅睇法。但係我哋--因為我哋背後都有啲專家，我哋啲專家，佢就話係...

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C 主席：唔係，你可以做好多嘢，即係你話...

C

D 李柱銘先生：係紐約政府都做嘅。

D

E 主席：你話要做，咁但係呢個 matter of cost，呢啲就。

E

F 李柱銘先生：係。即係紐約政府有做，但係呢啲又唔係話度度都適合嘅。

F

G 主席：係。

F

G 李柱銘先生：所以我覺得，如果係政府係--因為政府有好多部門，而家係
H 喺醫學嗰面睇，喺嗰面睇，可能啲醫生就緊張嘞，如果你政府乜都唔
H 話。佢而家話「喂，XRF」㗎嘛，嗰個醫生。

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I 主席：係。

I

J 李柱銘先生：如果佢即係記錄呢啲，又可能有幫助個喎。但係如果遲遲唔
K 做，硬係唔睬、唔理，咁嘅時候我哋就要為市民個健康嗰方面，就要
K 做得多啲嘢，就只係咁樣提出嚟嘅啫。

J

K

L 主席：明白，唔。

L

M 李柱銘先生：最後，我就想提一提我哋啲--我哋到到最收靚嗰度係提咗
M 嘅，係最收靚嗰段，就係律師費用嗰方面。我自己就已經一早都話咗
N 係 pro bono 嘅，我唔收。

M

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N 主席：係，唔。

N

O 李柱銘先生：但係我哋其他個 team，係佢哋都做咗好多工夫。咁其實我
P 可以話畀主席聽，係因為上次我哋申請係失敗之後，係有籌到啲錢
P 嘅，但係係肯定唔足夠。佢哋嗰幾個 juniors，三個 juniors，有
Q 時嚟我屋企啲的士錢，又要食飯錢，嗰啲咩嚟佢自己畀，我自己都
Q 唔舒服，但係就我希望你哋而家可以再考慮我哋呢個申請。

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R 主席：明白，唔。

R

S 李柱銘先生：係，除非有啲特別嘅問題。

S

T 主席：冇嘞，唔該。

T

U 李柱銘先生：你係准許我唔用晒一個鐘頭嘅，係咪？

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主席：准許。我自從喺...（聽不清）聽完你講之後，都有乜 interruption。

李柱銘先生：其實我唔係講你，不過多謝。

主席：我哋或者 take 一個十分鐘嘅 break 先，好唔好？

上午 10 時 41 分聆訊押後

上午 10 時 58 分恢復聆訊

出席人士如前。

MR PENNICOTT: Good morning, Mr Chairman.

主席：Can I call you Mr I.P.?

MR PENNICOTT: If you wish to, of course.

Mr Chairman, thank you very much. You have China State's interim submissions dated 5 February, both in relation to Kai Ching and Hung Hom, and you have our written closing submissions dated 10 March in relation to all other issues.

Mr Chairman, I think I can guarantee everybody a very early lunch because I am not planning to be very long, unless you have questions.

I have three areas I would like to cover. They are firstly, Kai Ching; secondly, copper alloy components; and thirdly, I just want to say a few words about delivery notes.

Mr Chairman, so far as the first topic is concerned, Kai Ching, it has been evident throughout the course of the hearing that Kai Ching has featured quite prominently, and that's for a number of reasons.

First of all, back in July 2015, it's Kai Ching Estate where the problem first arose, where it was first discovered. So in many ways, naturally, because of that, Kai Ching was always going to be on the agenda.

Secondly, Kai Ching is the largest of the 11 affected estates. It has, as you know, six blocks. It has 5,204 units. And if one takes a broadbrush view of the occupancy rate of the units, the population would be in excess of 20,000 residents.

Thirdly, the contract, the main contract, between the Housing Authority and China State, and the subcontract between China State and HBK, contained an express reference to the WHO Guidelines. You will remember that in the context of the HK-BEAM discussion and the evidence that we heard about that.

Fourthly, amongst the affected estates that you have heard about, Kai Ching had the VPBs and the VPKs. Nowhere else, as far as we are aware, did. But, as Mr Shieh and his team's submissions correctly state, that issue or that evidence is really a bit of a red herring and nothing that happened in Shenzhen was causative of the incident and the lead in the water.

Fifthly, when the WSD task force set about its work, two of the blocks out of the three that they chose to investigate were also located at Kai Ching. That is the Hung Shing and the Yuet Shing Houses. So the task force report itself is subjected, in large measure, to an analysis of the Kai Ching Estate.

Sixthly, and a point I am going to deal with separately but very briefly in a moment, Kai Ching had the delivery note issue. Why am I saying all this? Mr Chairman, it's to make this simple point, that despite all the evidence that you have heard about Kai Ching, I certainly urge you to take the view that in fact Kai Ching is no different to any of the other ten

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affected estates which you are considering. At the end of the day, the cause or the causes was the same, whichever affected estate you look at. It's just that for a whole series of reasons, Kai Ching has generated so much evidence, but not, I suggest, with a view to you treating it any differently than the other estates. I mention that.

Mr Chairman, could I then move to the second topic, which is the copper alloy components. I do this for two reasons. In agreement with what Mr Lee said earlier this morning, it's certainly China State's position that the Commission should not simply ignore the contribution that the copper alloy components may have had to the quantity of lead that was found in the water during the sampling process.

I have looked at, I hope quite carefully, Mr Shieh's submissions, closing submissions, to the Inquiry, to see what the Commission's legal team is recommending, if anything, in relation to the question of copper alloy components. Yes, we agree with him at paragraphs 248 to 256 of their submissions, that WSD needs to sort out the position in relation to the British Standards, that many references to British Standards are outdated. We know from some of the evidence that the WSD has already taken certain steps to try and sort this out, but clearly they do need to sort that out.

Yes, we agree with what Mr Shieh says about deviated materials, and you will recall some of the evidence that some of the approved materials -- again, at Kai Ching -- changed from what was originally approved on the WWO form to what was eventually found there subsequently and the relevant changes have not been made to the schedule attached to the form. Of course, that needs to be ironed out; that shouldn't happen.

Mr Chairman, we go a bit further than that and we

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say that the whole question of the components, copper alloy components that contain lead, should be looked at more carefully. One of the reasons I say that is simply this, that contractors and subcontractors tendering for projects, Housing Authority projects, need to have a degree of certainty that the materials that they are using are indeed approved and are indeed lead-free, and they don't have that certainty unless moves are made and steps are taken to thoroughly investigate and analyse these components. Simply because they may comply with a British Standard doesn't necessarily tick all the boxes.

I say that because there's a particular reason, and there's evidence before the Inquiry, that WSD wrote to the Housing Authority, who then copied the letter to my clients, stating that the components that were used were, yes, on the WSD approved list of materials; and then in the next breath said, "However, they don't comply with the British Standards, and they don't comply with the Water Regulations, and therefore please tell us what your answer is."

They can't have it both ways.

主席：Sorry, can you repeat your last sentence, please?

MR PENNICOTT: I can, I will try.

The letter is dated 6 October 2015. It's a letter from the WSD to the Housing Authority. In the first part of the letter, it said that materials have been found deviating from the original materials, but they accepted that those materials were on their approved list. However, they went on to say that those materials did not comply with the British Standards and were in breach of the Water Regulations.

In my submission, they can't have it both ways. They can't have an approved list of materials that

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contractors and subcontractors rely upon and use in Housing Authority and no doubt other projects, but on the other hand retain the ability to say they don't actually comply with the British Standards, they don't actually comply with the Water Regulations.

All of this needs to be consistent, there needs to be certainty, and at the moment, in our respectful submission, that isn't the case. That's why we have suggested in our submissions that this whole question of the components should also be looked at.

However this is going to be taken forward in terms of the recommendations you, sir, may make, in terms of how -- whether there's going to be an independent regulator or an independent committee or --

主席：It's a matter of quality assurance by the manufacturer, isn't it?

MR PENNICOTT : There's a large element of that, Mr Chairman. Yes, there is.

主席：So, in that sense, there is not that much we can do, save -- well, of course we can say -- you say the British Kitemark only? You know, we can't really say that. But what we can say may be along the line that, look, in addition to, say, on the WSD approved list, the manufacturer has to prove that there is in place, say, an ongoing certification process, or something like that.

MR PENNICOTT : Yes. The way we have put it in our submissions is that there needs to be a review of WSD's existing approval and certification system for plumbing materials; that measures, including updating the list of applicable British Standards in the Water Regulations -- and I have touched on that -- should be carried out; testing certificates should be required for each of the items or materials going onto

the list; and then regular reviewing of the approval status should take place.

Quite how that is implemented, but that's the thrust of what we are saying regarding these components.

主席：Yes.

MR PENNICOTT: Mr Chairman, lastly, unless there are any questions -- and it may be that I am just being a little bit sensitive -- but there's something in Mr Shieh's closing submissions which I just want to clarify or seek to clarify. It's in paragraphs 143 and 144 of his submissions, when he deals with -- and you will probably recall the evidence, Mr Chairman, about a couple of delivery notes that were given by HBK to China State. What is said by the Commission's counsel in their submissions at paragraph 144 is:

"According to China State, these delivery notes were submitted to the [Housing Authority's] project clerk of works at the [Housing Authority's] request under the cover of two memos ..."

Then the memos are referred to. As I say, maybe I am being a little bit sensitive, but he said the wording, "According to China State". Mr Chairman, we have dealt with this point in paragraph 24, subparagraph (13) of our interim submissions in relation to Kai Ching, when we point out that the Housing Authority, through their leading counsel, during the course of the Inquiry, accepted that they had received those memos, accepted that they therefore had possession of those delivery notes.

So it's not just according to China State. It's according to China State and the Housing Authority. The difference is that we've called witnesses who have spoken about those delivery notes, whereas the Housing Authority, of course, have not called anybody to

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explain (a) why they asked for them in the first place and (b) whether they actually looked at them in the second place.

Maybe I'm just being a bit sensitive but I just wanted to make that clear.

Chairman, that's all I have to say, unless I can assist you further.

主席：Thank you. All right.

Lunch time. Yau Lee and Ming Hop will come in the afternoon, so a long lunch. Thank you.

上午 11 時 12 分聆訊押後

下午 2 時 33 分恢復聆訊

出席人士如前。

李頌然先生：係，主席。

主席：係。

李頌然先生：主席、委員，好多謝，當我知道今朝原來十一點幾已經處理好今朝嘅陳詞，我都相當之覺得唔好意思，要大家嚟到晏晝去由我哋作出個陳詞。

主席，喺我為我嗰三名嘅當事人作出我嘅結案陳詞，我將會首先係採納番我哋件案件去到中段，我哋就住主席要求我哋作出嘅中段嘅陳述，咁已經存檔咗。同埋我哋喺在冇幾耐之前，係就住呢件案件，我哋嘅最終嘅結案嘅陳詞，我都會採納番個內容。咁喺今天，我都唔打算係去複述入面嘅內容。

主席同埋委員，今次我三方嘅當事人其實個立場嗰方面，喺我去為佢哋作出最後一個總結之前，就住呢件案件嘅一啲參與人士嘅最後陳詞。就住代表委員會嘅律師團隊嘅陳詞，我係冇意見，有任何嘅回

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答。就住房委會，我亦都係冇回答。而就住莫先生同埋蕭先生，即係永興同恆利兩個代表嘅陳詞，我只可以講當然佢哋冇律師嘅代表，而就住佢哋嘅書面嘅說法，我亦都係謹邀請委員會去睇番--當然相信你哋都會睇番個謄本，聽番啲證供。同埋代表委員會嘅律師團隊就住呢兩個公司嘅證供嘅分析，亦都係都好詳盡，亦都係我哋都有意見，喺呢一方面。咁呢個證供上面嘅演繹應該點睇，呢度我都唔再需要用時間去講述。

唯一剩番就係水務署方面嗰個陳詞，即係有一點啫，咁相信其實都不難去睇到嘅，或者我可以好快講講。就係佢哋嘅陳詞係 28 頁，第 48 段。

主席：水務署嘅？

李頌然先生：係。

主席：係。

李頌然先生：係。呢度我就係留一個註腳，就係呢度其實係水務署方面，就分析番伍克明先生嘅證供。當然，喺有限嘅頁數、有限嘅字數情況底下，水務署就撮要咗伍先生嘅證供。

我只可以留個註腳，就係其實--尤其是喺中間嗰度，“But then Mr. Ng accepted that he could not recall if he himself had told them clearly that the solder used had to be lead-free, . . .”一路落，去到最尾--當然呢個係真係撮要得都幾短。我哋可以提醒番大家，其實伍先生唔係淨只講咁少嘅。

因為閣下會記得，我哋嘅立場，就住呢兩個判頭嘅情況，我哋嘅關係上面係一個長久嘅關係，以往都有做過，有上料。就算元州邨，我哋都有證供顯示有上料畀房屋署。所以唔係淨只咁簡單話「啊，我都唔係好記得我有冇同佢哋講過要用一啲不含鉛嘅嘢喇。」所以呢度我留個註腳，就係唔係咁短、咁聚焦。我相信喺最終就住個事實方面嘅考慮同裁決，委員會會係有一個好詳細嘅分析考慮，而先至達致到一個證供上嘅裁決。

閣下，呢度就係--嚟到講呢度，就係我想就住各方嘅 parties 嘅陳詞嘅回應。而就住我三名嘅當事人，我嘅總結係咁樣。閣下會睇到我哋嗰兩份嘅陳詞，就住個認知嗰方面，其實喺我哋個中段嗰個陳述已經好清楚係表述番我哋個立場。

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正如我剛才所講，我哋個情況由於我哋係有利建築，明合其實都係有利嘅一個 subsidiary。伍克明先生就係受聘於明合，而伍克明先生或者明合，對落就係永興、恆利。永興、恆利就同和興或者雋景去買料。其實呢個成個係一個鏈嚟，有唔同嘅參與者。我哋嘅講法，就係我哋當然而家知道件鉛水事件發生之後，倒轉返嚟睇，其實大家就係用緊一個放大鏡去睇緊呢啲當時大家都唔係一啲覺得係即刻要有警惕性、警覺性嘅嘢。當然而家睇番，就係我哋要查找有甚麼地方做得不足，咁呢啲不足嘅地方，當然我哋已經講咗我哋嘅情況，我唔再去複述番。

我哋嘅講法就係話其實嚟整個行業入面，當時未發生時，對於呢個食水可能會含鉛呢一個風險嗰個評估個認知，或者相對要做啲乜嘢去打擊呢個風險，或者減低個風險，係有一個唔足夠嘅地方。嚟我三名當事人...

主席：唔足夠嘅地方，不過伍克明唔同嘞，伍克明係有少少例外。

李頌然先生：係。佢好早前已經知道，佢個--閣下，或者咁講，我哋講嘅「唔足夠」係一個形容詞，但係「唔足夠」呢個形容詞當然有程度，我明白閣下個關注嗰個地方。伍先生，係，佢好早前已經知道，從一啲 supplier 話畀佢聽，「噏，要用無鉛嘞。」佢係知道 BS Standard。咁嚟制訂一啲計劃，嚟明合嗰方面，因為佢係負責呢方面，制訂嗰度的而且確係有做到一個最理想、最足夠。

主席：唔單只係嘞，佢仲係呢個咩嘢商會嗰啲咩嘢咩嘢？

李頌然先生：係。

主席：嘎，唔。

李頌然先生：嘎。當然呢個係伍克明先生，但係我哋都係講番係整個行業。

主席：係，係。

李頌然先生：嘎，都係有不足嘅地方。

主席：唔。

李頌然先生：如果當然就住我哋呢三個當事人，我明白閣下個關注嘅地方。

但係我哋再成個版圖咁睇，閣下會記得我哋--當然「所託非人」呢個係一個形容詞嚟嘅啫，唔係推卸責任。只不過嚟呢個我哋用緊永

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興同埋恆利呢兩個判頭，我哋基於一個長期嘅信任，我哋嘅講法，就係以往都有一啲發生嘅事，譬如話「啊，見到你哋用錫條，我都唔出聲。或者知道你咁樣，唔係。上料我哋知，講咗畀你聽我哋要用不含鉛嘞。」喺個監管嗰度，咁呢個當然我哋都有再進一步去--當然唔會有任何嘅卸責嘅講法。

但係就基於個長期嚟講，其實我哋係睇番咁多年嚟，我哋咁信呢個人，做落都有事，出咗事之後，再一路查究番，就發覺「啊，原來信唔過嘅。」當然責任就大家都會有啲嘅，有程度上，呢個我哋都唔會去否認、去抵賴。

咁到最終我哋搵到，而家就住呢件案件，要求我哋去提供證供，我哋表述咗我哋個立場。我哋個陳詞，就係其實喺整件事入面，各個有份嘅提供食用水呢個環節嘅持份者入面，其實我哋嘅立場好清楚表述，其實個個都係有不足嘅地方，大家都預料到會咁大件事發生咗。但係有一個預見，或者溝通上有不足，部門與部門之間，以致到有制訂一啲好嘅計劃去確保今天呢個聆訊係其實唔應該發生。呢個就係就住我哋去查找個原因嘅地方，我要作出一啲總結。

而委員會都會睇到，喺證供上我哋都講咗，就係其實就住有利、明合嗰方面，因為呢件事發生咗之後，其實已經好快做一啲嘅工夫，喺咁短時間要諗有啲咩嘢可以做，都已經係唔諗錢嘍。我哋聽過黃先生嘅證供，去買咗好多啲濾水器，再接駁過一啲喉，去確保件事喺最短嘅時間內得以一個暫時嘅舒緩。呢方面其實可以反映到我呢兩名嘅當事人，佢哋就住呢件案件，佢哋個重要性覺得，同埋佢哋個心思嗰方面，係的而且確係一個都好正面去糾正番以往嘅一啲不足嘅地方，而產生咗一個後果，係作出一啲好快嘅糾正。其實喺咁短時間可以做到咁多嘢，我都認為都應記一功，喺呢一方面。當然，以往做嘅嘢係做得唔夠好，而家就即係唔可以話將功補過，係我哋有正視呢一個問題。

主席，呢個就係我今天想再濃縮番我哋個立場或者情況，咁我採納番我嘅書面嘅陳詞。唔知有啲咩嘢地方可以協助到兩位？

主席：冇嘢問。

李頌然先生：唔該晒。

主席：冇嘢問，黎生？

黎先生：冇。

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主席：唔該。如果係咁，就聽完晒今日嘅陳詞。聽日可能會 heavy 啲，聽日朝早九點半開始，記住。保華會行先，跟住就係房委會，跟住到我哋。咁我嘅理解就係 Prosperity(雋景)就好像話想入個 written submission。

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石先生：係。佢哋申請就係想多啲時間做呢個書面嘅陳詞，就係下個星期嘅。

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主席：係喇，不過我就拒絕咗。

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石先生：係。

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主席：我就話「如果你要書面嘅話呢，就你聽日 1 點鐘之前就交嚟。」

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石先生：係。原因就係因為當中其中一位分判商嘅陳詞裏面，係有一啲嘢係會潛在地影響到 Prosperity 係有啲嘅指控。

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主席：有機會喇。

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石先生：所以就公允起見，應該係畀 Prosperity 係對於一個比較--其實唔係話好多嘢嘅啫，不過裏面就。

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主席：好少嘢嘅啫，其實就係。

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石先生：咁就畀 Prosperity 一個機會去對啲指控作出一個回應嘅。

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主席：得。

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石先生：咁就係以我理解係委員會係准許佢哋。如果佢哋希望採納呢個機會係對啲指控作出回應嘅話，就聽日 1 點鐘可以作出一個書面嘅陳詞。

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主席：係。

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石先生：我諗如果佢鍾意，佢嚟埋講，下晝嘅話，我入咗之後嚟，咁...

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主席：都有所謂，我哋都可以 accommodate 佢嘅。

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石先生：嘎，佢 1 點鐘入，我哋食飯嘅時候睇，咁晏晝，我未必用晒成個晏晝，所以如果 Prosperity 下晝想派人嚟都可以嘅，我諗我哋會同佢通知埋。

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主席：佢話佢唔會派人嚟嘅。

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石先生：Okay。

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主席：佢話佢唔會有 oral submission，不過會有 written，咁我話
「如果你 written 嘅話，就 1 點鐘之前。」

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石先生：好。

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主席：咁我哋聽朝早九點半，唔該。

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2016年3月16日

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下午 2 時 45 分聆訊押後

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C Wednesday, 16 March 2016 C

(10.03 am)

D (Transcript of simultaneous interpretation D

E except where otherwise specified) E

F Submissions by MR LEE F

F MR LEE: Chairman and member, in the olden days, great
G people, from 577 to 581 AD, Yuxun in the North Zhou
H Dynasty, said a gentleman who drinks water should think
I about the source. Well, if the word "source" is written
I in another form, it becomes "lead".

J When my learned friend heard that I am a lawyer
J representing the victims in this case, he gave this
K quote to me and that is, "Think of the source when you
K drink your water", and I hope there can be a better
L booklet: "Just think of the source when you drink the
L water; just keep watch when you drink."
M

N Mr Chairman, having heard so much evidence, we are
N now at the closing submission stage. Many people in
O Hong Kong want to know this, but in fact they really
O don't know, in so many housing estates, which housing
P estate, which building, is really lead-free and there is
P no need to worry -- the water from your tap which you
Q use to cook is lead-free, it's safe -- up till now,
Q nobody knows. This is the answer most wanted by the
R people of Hong Kong, but the answer has not been given.
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C Now, you are going to investigate. Your C
D investigation has three objectives. First, the first D
E one is particularly on the public housing estates, and E
F the third is to give recommendation to the CE, that is F
G make recommendations with regard to the safety of G
H drinking water in Hong Kong. H

I I hope you will adopt a wider perspective in I
J interpreting the terms of reference of the Commission. J
K Although the investigation does not include private K
L buildings or schools, I hope that in your L
M recommendations, you can still cover that under the M
N third terms of reference. N

K CHAIRMAN: You mean reference to private buildings? K

L MR LEE: And schools, hospitals and so forth. They are L
M directly related to the people of Hong Kong. M

N At the start, the Chief Secretary for Administration N
O chaired an interdepartmental meeting. She said that she O
P would comply with three principles to deal with excess P
Q lead in drinking water, and that is to be open and Q
R transparent; it should be people-oriented; and there R
S would be thorough investigation. But they are not able S
T to achieve that. In particular, with regard to thorough T
U investigation, there is a lot of inadequacy here. If U
V there is thorough investigation, then how come, up till V
now, we still don't know, among so many housing estates,

which building or which block is free of lead or safe?

The Administration has said that there were 11 affected housing estates, and there are a hundred or so which should be unaffected. But who dares say so? Look at what they do. The Housing Department has adopted a conservative approach in dealing with the matter, and that's a good thing. Say in a housing estate, if there is a unit in a block, if the water sample from a tap in that unit exceeds the WHO reference, and that is 10 micrograms per litre, then the whole housing estate is regarded to have been affected, and that's a good approach. The WSD said, "It's none of my business; the standard is set by the Housing Department", and obviously the WSD knows the standard adopted by the Housing Department.

As for water testing, that brings us to one of the most crucial aspects, if not the most crucial aspect. Everybody knows that. The task force knows it. At the first meeting, 17 July last year, it knew that, when you take samples, if you have different approaches, there would be different outcomes. Say if you take stagnant water, then the lead content would be higher. If you take flushed samples, then the lead content will be near to zero.

The decision then was that two types of samples

should be taken, and that's logical. But why, at the end, only, in this book, flushed samples were adopted and people were asked to flush their tap before they take the water? How many public housing estates, how many blocks in them have excessive lead content in water causing health hazards to children? The answer has not been given. The problem is not resolved. How can that comply with the principle of thorough investigation?

The CS for A is right, at the start, the attitude is good. At the press conference, she said it very clearly, and it's also in this book. She said that the interdepartmental working group started on 11 July and made very important decision on subsequent work and relevant -- and follow-up measures. That is a very responsible attitude. But suddenly everything has died down.

The first meeting of the task force raised this controversy, and therefore it was decided that two types of samples would be adopted.

What is the controversy? The citizens are of the view that the lead content is higher with regard to stagnant water, and after flushing then the lead content is lower, and that's why the so-called first-draw or stagnant water samples are taken. But all along they refused to do so. And the decision should not just be

the decision of Chan Kin Man alone. However people criticise the government, it's impossible that such a big government can allow just one person's view to override all other views, even if other people, officials have other views. Mr Chan Kin Man described him as "a small potato". He is retired. In a big government, a small potato, a small retired potato, makes such a decision affecting so many people -- how can that be? This is a very important decision.

The more adamant the WSD that it is the professional decision of Chan Kin Man, we firmly believe that isn't so.

And Ada Fung of the Housing Department also said very clearly, when I asked her, "Why do you insist on flushing for five minutes?" -- I thought it was five minutes; in fact the ordinary approach was two minutes of flushing -- one of her answers was that first of all the permanent secretary liaised with the director of Water Services very closely and looked into the matter with the Government Laboratory. In fact, the whole government, including the CS for A and the relevant heads of bureaus and department heads and permanent secretaries sat together and discussed this issue.

That is completely different from the evidence of the WSD. In fact, what I read is in paragraph 29 of my

written submission. That's for your reference. Since it is the whole government which has complied with this, then why, today, when the COI have invited two experts to write an interim report or preliminary report, stating very clearly that stagnant water samples should be taken, and up till now we have turned a deaf ear to this call.

Chairman, if I may quote you, you asked them, "Why don't you take one more step?" Even Chan Kin Man believes he is right, and all government departments believe that he is right. Then what's wrong with taking one more step? This is a controversial issue and it should have been resolved and it doesn't waste time. Well, you are going to flush the water before you take samples; why don't you take the water samples first and then flush? They don't understand. They should be smarter than me. Just stagnant water, you don't need to take overnight samples. You can do it, say, at 5 pm, before they do the dinner cooking. They should have thought about it, though I just suggested it now; they are experts.

So there is no problem. It's easy. It doesn't waste time. It is a controversial issue and has been raised at a very early stage and the task force decided to do it, and up till now they refused. Experts have

C given their views and yet they still insist -- they just
D resort to ISO 5667-5. That is not to be interpreted
E this way. If you just get the general water quality,
F then flushed samples, you can say that's 100 per cent --
G you can give it 100 per cent. But when it goes into the
H buildings, it's inside service, then it's a problem, and
I after flushing there are still samples which exceed the
J WHO Guidelines.

K So it's not that they believe Chan Kin Man. Rather,
L the senior level of government, the departments,
M including the departments, have made a firm decision,
N and that is to discard the overnight water sample or
O water samples. Everybody knows that if you take those
P samples, it will not be 11 affected housing estates;
Q there may be many more. Then there would be a problem
R on cost.

S It's said that the testing is conservative. That is
T if one sample is a problem, then you can also -- then
U the whole housing estate will be regarded as affected.
V At the start, since he knows, then he can take two
samples, and then they have found that many housing
estates have a problem, then you will not adopt the
Housing Department's approach, which is that if one
sample is a problem then the whole housing estate is
affected, then you can sit down and talk and think about

it.

It's the HD's decision that when one sample is problematic, the whole estate will be affected.

CHAIRMAN: But back then there was no time to discuss in such great detail.

MR LEE: But if not done then, even now, and therefore we have this problem.

When you draft the report, if you don't mind, if you agree with this view, they should do what should have been done back then.

CHAIRMAN: Because I have re-read Prof Bellinger's report, and he mentioned CDC US and the decision of CDC, and I think it was worthy of reference. The US affairs used this so-called action level and then it was amended to reference level.

So, when a certain statistical percentile was reached, the government should do something, and I think this is worthy of consideration.

MR LEE: Yes, this is one of the desirable options, and I think there are other options as well. The government should come up with one that best suits the situation of Hong Kong.

CHAIRMAN: Well, these options cannot be implemented overnight.

MR LEE: I agree. Therefore, I'm a bit agitated because

they are not willing to test in this way, and therefore they would never know how bad the situation is and you can never decide the right solution to tackle the problem. So they should do the tests first, when all the data is available, and they would know that many housing estates and even private developments are affected.

When I questioned or examined the witnesses, I asked whether orthophosphate could be used, or Mr Lee Hung Fai said silicate could be used. I believe the outcome would be just the same. Inside the tap, there will be an inner lining; that would be very safe, even though there is water leakage on the outer pipe, the inside is safe.

Of course, there are cost implications. If the government has to spend a lot of money anyway, this is one of the feasible options. Of course, we cannot decide which company to use. This is subject to a tendering exercise and whether the option works is also subject to an experiment. However, we should look at this issue from a high level. The government hasn't done what it was supposed to do, so I hope that the Commission can give recommendations to the government, to reconsider what should be done, and it's better late than never.

I do understand that this problem is not easy to resolve, and if we go along this direction, Chairman, I believe we can all accomplish the task.

So far, what has the WSD done? I have always wondered, how come, after two minutes of flushing, there are so many samples with excessive lead? After cross-examination, it's clear. In particular, Prof Fawell said that the most likely cause was particulates, lead particulates, were in the water samples when the tap was switched on. After one or two minutes, lead particulates appeared.

I have read the statements very carefully and I found out that acid was used in the test. Prof Fawell used the word "acid digestion". I was thinking of digestion as what happens in our body. Rather, it's the addition of acid in testing the samples and all the lead particulates would be dissolved, to give the results.

And Prof Lee talked about ICP-MS. Of course, I don't know what it is, ICP-MS.

So, looking back, I believe this is the most logical view, and Prof Fawell was very fair and he said if anyone had another view, to feel free to voice it out, but he believed that was the most likely cause.

I am a layman in chemistry, but I believe perhaps it was lead particulates, and the question was raised.

This leads to another question. I use the word "government" -- when the WSD took water samples, in some housing estates there were water samples exceeding WHO standards. In two housing estates, there were water samples found to have exceeded the standards, and yet -- they are Yee Ming Estate and Kwai Chung Estate -- there were water samples exceeding the samples, and also Choi Tak Estate and Shui Chuen O Estate. But these housing estates were not regarded as affected housing estates.

Please refer to paragraphs 83 through 85 of my submission. Regarding Yee Ming and Kwai Chung, Prof Lee confirmed that there were exceedances. However, even now, they are not listed as affected estates.

Another big issue is, as pointed out in paragraph 88, unaffected housing estates built after 2005, there were 102 samples not issued or discarded for various reasons. So where did these samples come from? We don't know. The reasons why they were discarded -- well, we don't know. For those unaffected public housing estates built after 2005, there were nine such samples -- rather, completed before 2005, there were nine water samples discarded or not issued. What were the reasons for that? We don't know.

However, as said in paragraph 91 of my submission,

in the affected housing estates, in Shek Kip Mei Estate, one sample contained a visible black particulate, and it was regarded as being abnormal, and they claimed that it was probably caused by contamination, suspected environmental contamination, in paragraph 91.

But I think we should accept Prof Fawell's statement or the reason: it was not really environmental contamination but rather because of the lead particulates. Now, this is a big issue. If these particulates were dissolved, there would certainly be problematic samples. 102 discarded, nine discarded. So how many affected housing estates that would be? We don't know. This was a big problem. Why was that done?

So when we note the government's position or attitude, when we note how the government dealt with these samples, with this evidence, we for sure have reason to believe that the decision not to test stagnant water samples was impossible to be made by -- was probably impossible to be arrived at due to the professional scientific conviction of Chan Kin Man. Rather, it was because the government didn't really want to know how bad the real situation was. So it would not test water samples containing lead; it would not take water samples that would most likely contain excessive lead. The decision was for sure made by a senior level

of government. How senior, I don't know, but it is impossible for this interdepartmental committee not to have known, not to know. The decision might have come from this interdepartmental committee or from a higher level of government.

This is the year of the monkey. I believe in the very upper echelons of government, there are three monkeys up there -- I am not going to name them -- who don't want to listen or hear or ask and to see, who made that decision.

The COI must address this issue. This is not about political accountability. This is not about taking civil action. This is not within the terms of reference of the COI. But if this is the government's position, what can we do? Of course, the COI can only do what they believe is right to do. You can write it out; I'm sure that members of the Commission are already doing this.

The majority of my submission is targeted at the WSD, but that doesn't mean that we accept that all relevant departments or persons have done the right thing. However, we have not devoted too many paragraphs to them.

For instance, there was no reason why the HD did not know, or the developers, contractors, LPs -- to

C a certain extent, they should all be held responsible --
there was no reason for them not to know. C

D After hearing all the evidence, I have come to this D
view. The greatest -- of course, there are near and E
long-term causes, and then the most imminent cause is E
F the use of lead solder in pipes. But what about the F
G components? They must not be overlooked. We have to G
ascertain the contribution by these components of lead H
H to water. H

I So we talked about the imminent cause, but there I
were also long-term causes. This was because, for J
J a long time, for a very long time, the government has J
K adopted this attitude that nothing would happen, we have K
L already done what we are supposed to do. L

M CHAIRMAN: You are talking about the WSD? So it's about the M
WSD? M

N MR LEE: Yes. N

O We have the British Standards. But the government O
as a whole has the responsibility. The WSD is overseen O
P by somebody. Why should responsibility be entirely on P
Q the APs and LPs? Why do they just rely on a few forms? Q
R There was no investigation, no prosecution of any party R
because of the use of materials containing lead. We R
S know that it's not allowed to use lead and the British S
T Standards are good and how can they assume that no one T
U
U
V

is using such material in the market?

I don't understand why they think that in Hong Kong

no one would deliberately use lead solder. Why not?

Because they are cheap and faster and good. So why

wouldn't they use it? And more important, though,

nobody cares. Although it's against the law, they will

say there is no one to sue us; why not? Well, if I bid

for a project, he asks for a cheaper price, then I have

to ask for a higher price if I use lead-free solder.

Even for the private building developers, some of them

may be very good ones, they don't want to do that, but

they may not know, because that is at the lowest level.

It can be subcontracted down to several levels.

The witnesses say they don't know, but I don't

believe they don't know. They know. But even if they

do it, there is no consequence. It's not that the cat

is taking leave, it's that the cat doesn't catch the

mouse. It has never done so before. If you say the

industry doesn't use cheaper solder material, that would

be strange.

So how big is the extent, we really don't know.

Those who come here of course will deny that. Some did.

You heard some did, and if they did, then there's no

reason not to believe them. The Housing Department has

penalised four contractors. I read in the newspaper,

they were prohibited from bidding for further Housing Department projects for eight to 12 months, until it has been put back on the list -- for example, Shui On last November, and China State Engineering this January, they have resumed their position in the list. What kind of penalty is this?

Then the WSD said there is a point system, but the person doesn't need to be present when the testing is done. I have asked the WSD -- I have forgotten the name of the witness -- I asked, "How are you going to deal with that?" He said he would have to consult the industry on how to penalise the industry. What sort of enforcement attitude is this? What sort of mentality is this in terms of law enforcement? If they keep doing that, then we are in trouble, as far as water quality is concerned. We really don't know how to handle that.

Give me a minute to see whether I have left anything out, please.

Yes. When you make your recommendations, Mr Chairman and member -- that is covered by our last part of the submission -- I think one of the most important recommendations is that should the problem re-occur, if samples are to be taken for testing, it has to be overnight water samples or stagnant water samples. You must have these samples, even if you want to include

C other types of samples. C

D We also recommend that there should be a database --
D paragraph 141, that is a database for blood tests, heavy
E metals in blood. Then the government -- E

F CHAIRMAN: What do you mean? F

G MR LEE: We should not use the intrusive approach to ask
G people to test their blood all the time, but if people
H do test their blood, they can put a tick against the box
H and test for heavy metals in their blood, and this will
I be recorded by the government. I

J CHAIRMAN: You mean a general health test, just like testing
J for cholesterol? The government collect data, blood
K samples? K

L MR LEE: In fact, it is to collect information from
L hospitals and clinics of Hong Kong. This is part of the
M collection of data. M

N COMMISSIONER LAI: I don't quite understand your point. N

O I don't understand what exactly is your suggestion. O

P MR LEE: When people do their blood tests, they can ask to
P test this, put a check against the box. They don't go
Q to do it deliberately. Now, when there is an incident,
Q we have to take the tests on heavy metals specifically.
R The children and the pregnant mothers will have to take
R a test. But if you just do a health test, and you test
S your blood then you put a check against the box and test
T

heavy metals and then if you found it, it can be dealt with easily.

CHAIRMAN: I understand your point, but the question is -- now, this is about lead. So you have your recommendation. But there are many illnesses, right, and you cannot have a database that includes everything tested. It doesn't make sense.

MR LEE: I am concerned about the attitude of the government. They just couldn't care less. So how can we deal with this? We need to provide information, we need to provide data, by another channel. If the government is actively handling the problem, then I don't think there is such a need to have a database.

CHAIRMAN: To a certain extent, you do need to have scientific basis, if you follow Prof Bellinger's view -- now, if the care plan is adequate and sufficient, then doing what you say would be very costly and a waste of money.

It's already said that according to the current exposure level, it's not very high, and there is no acute toxicity, but there is the problem of chronic exposure, in particular with reference to the vulnerable groups. At the present stage, observation is necessary, and if there are any developmental problems then you can follow up with an environmental assessment and things

like that.

MR LEE: I understand your point. But we do have experts behind us, and their suggestion --

CHAIRMAN: Yes, you can do a lot of things. Even the New York government does this. It's a matter of cost.

MR LEE: The New York government does this, but it does not apply to every place. There are many government departments now. This is from the medical perspective. The doctors may be very anxious. They have the XRF. If they actively use that, that would be helpful, but they are just sitting on their hands; they just couldn't care less. Then we need to care for the health of our citizens and we need to do more, and that's why we make such a suggestion.

CHAIRMAN: Okay. I understand your point.

MR LEE: Finally, in the last paragraph, legal costs.

I have already said it's pro bono for myself, but as for the team members, they have put in a lot of work and efforts. I can tell the chairman that last time we failed in our application. After that, we raised some money, but that isn't adequate.

I have three juniors and they need to pay for their travelling and also their meals, and I'm not comfortable with that. I hope that you will reconsider our application.

A	<i>Annex: Realtime English Transcription based on floor / Simultaneous Interpretation</i>	A
B	Commission of Inquiry into Excess Lead Found in Drinking Water	B
	Day 66	
C	CHAIRMAN: Okay. Thank you.	C
D	MR LEE: Unless I can be of any assistance.	D
E	CHAIRMAN: Thank you.	E
F	MR LEE: You allow me not to make full use of an hour.	F
G	CHAIRMAN: I have never made any interruption.	G
H	MR LEE: I am not talking about you. Thank you very much anyway.	H
I	CHAIRMAN: Okay. We will have a ten-minute break. (10.43 am)	I
J	(A short adjournment) (10.59 am)	J
K	Submissions by MR PENNICOTT	K
L	MR PENNICOTT: (In English) Good morning, Mr Chairman. Thank you very much.	L
M	You have China State's interim submissions dated	M
N	5 February, both in relation to Kai Ching and Hung Hom, and you have our written closing submissions dated	N
O	10 March in relation to all other issues.	O
P	Mr Chairman, I think I can guarantee everybody a very early lunch because I am not planning to be very	P
Q	long, unless you have questions.	Q
R	I have three areas I would like to cover. They are	R
S	firstly, Kai Ching; secondly, copper alloy components; and thirdly, I just want to say a few words about	S
T	delivery notes.	T
U		U
V		V

Mr Chairman, so far as the first topic is concerned, Kai Ching, it has been evident throughout the course of the hearing that Kai Ching has featured quite prominently, and that's for a number of reasons.

First of all, back in July 2015, it's Kai Ching Estate where the problem first arose, where it was first discovered. So in many ways, naturally, because of that, Kai Ching was always going to be on the agenda.

Secondly, Kai Ching is the largest of the 11 affected estates. It has, as you know, six blocks. It has 5,204 units. And if one takes a broadbrush view of the occupancy rate of the units, the population would be in excess of 20,000 residents.

Thirdly, the contract, the main contract, between the Housing Authority and China State, and the subcontract between China State and HBK, contained an express reference to the WHO Guidelines. You will remember that in the context of the HK-BEAM discussion and the evidence that we heard about that.

Fourthly, amongst the affected estates that you have heard about, Kai Ching had the VPBs and the VPKs. Nowhere else, as far as we are aware, did. But, as Mr Shieh and his team's submissions correctly state, that issue or that evidence is really a bit of a red herring and nothing that happened in Shenzhen was

causative of the incident and the lead in the water.

Fifthly, when the WSD task force set about its work, two of the blocks out of the three that they chose to investigate were also located at Kai Ching. That is the Hung Shing and the Yuet Shing Houses. So the task force report itself is subjected, in large measure, to an analysis of the Kai Ching Estate.

Sixthly, and a point I am going to deal with separately but very briefly in a moment, Kai Ching had the delivery note issue. Why am I saying all this? Mr Chairman, it's to make this simple point, that despite all the evidence that you have heard about Kai Ching, I certainly urge you to take the view that in fact Kai Ching is no different to any of the other ten affected estates which you are considering. At the end of the day, the cause or the causes was the same, whichever affected estate you look at. It's just that for a whole series of reasons, Kai Ching has generated so much evidence, but not, I suggest, with a view to you treating it any differently than the other estates. I mention that.

Mr Chairman, could I then move to the second topic, which is the copper alloy components. I do this for two reasons. In agreement with what Mr Lee said earlier this morning, it's certainly China State's position that

the Commission should not simply ignore the contribution that the copper alloy components may have had to the quantity of lead that was found in the water during the sampling process.

I have looked at, I hope quite carefully, Mr Shieh's submissions, closing submissions, to the Inquiry, to see what the Commission's legal team is recommending, if anything, in relation to the question of copper alloy components. Yes, we agree with him at paragraphs 248 to 256 of their submissions, that WSD needs to sort out the position in relation to the British Standards, that many references to British Standards are outdated. We know from some of the evidence that the WSD has already taken certain steps to try and sort this out, but clearly they do need to sort that out.

Yes, we agree with what Mr Shieh says about deviated materials, and you will recall some of the evidence that some of the approved materials -- again, at Kai Ching -- changed from what was originally approved on the WWO form to what was eventually found there subsequently and the relevant changes have not been made to the schedule attached to the form. Of course, that needs to be ironed out; that shouldn't happen.

Mr Chairman, we go a bit further than that and we say that the whole question of the components, copper

C alloy components that contain lead, should be looked at
D more carefully. One of the reasons I say that is simply
E this, that contractors and subcontractors tendering for
F projects, Housing Authority projects, need to have
G a degree of certainty that the materials that they are
H using are indeed approved and are indeed lead-free, and
I they don't have that certainty unless moves are made and
J steps are taken to thoroughly investigate and analyse
K these components. Simply because they may comply with
L a British Standard doesn't necessarily tick all the
M boxes.

N I say that because there's a particular reason, and
O there's evidence before the Inquiry, that WSD wrote to
P the Housing Authority, who then copied the letter to my
Q clients, stating that the components that were used
R were, yes, on the WSD approved list of materials; and
S then in the next breath said, "However, they don't
T comply with the British Standards, and they don't comply
U with the Water Regulations, and therefore please tell us
V what your answer is."

They can't have it both ways.

CHAIRMAN: (In English) Sorry, can you repeat your last
sentence, please?

MR PENNICOTT: (In English) I can. I will try.

The letter is dated 6 October 2015. It's a letter

from the WSD to the Housing Authority. In the first part of the letter, it said that materials have been found deviating from the original materials, but they accepted that those materials were on their approved list. However, they went on to say that those materials did not comply with the British Standards and were in breach of the Water Regulations.

In my submission, they can't have it both ways. They can't have an approved list of materials that contractors and subcontractors rely upon and use in Housing Authority and no doubt other projects, but on the other hand retain the ability to say they don't actually comply with the British Standards, they don't actually comply with the Water Regulations.

All of this needs to be consistent, there needs to be certainty, and at the moment, in our respectful submission, that isn't the case. That's why we have suggested in our submissions that this whole question of the components should also be looked at.

However this is going to be taken forward in terms of the recommendations you, sir, may make, in terms of how -- whether there's going to be an independent regulator or an independent committee or --

CHAIRMAN: (In English) It's a matter of quality assurance by the manufacturer, isn't it?

C MR PENNICOTT: (In English) There's a large element of that,
Mr Chairman. Yes, there is. C

D CHAIRMAN: (In English) So, in that sense, there is not that D
E much we can do, save -- well, of course we can say -- E
F you say the British Kitemark only? You know, we can't F
G really say that. But what we can say may be along the G
H line that, look, in addition to, say, on the WSD H
I approved list, the manufacturer has to prove that there I
is in place, say, an ongoing certification process, or

J MR PENNICOTT: (In English) Yes. The way we have put it in J
K our submissions is that there needs to be a review of K
L WSD's existing approval and certification system for L
M plumbing materials; that measures, including updating M
N the list of applicable British Standards in the Water N
O Regulations -- and I have touched on that -- should be O
P carried out; testing certificates should be required for P
then regular reviewing of the approval status should

Q Quite how that is implemented, but that's the thrust Q
of what we are saying regarding these components. Q

R CHAIRMAN: (In English) Yes. R

S MR PENNICOTT: (In English) Mr Chairman, lastly, unless S
T there are any questions -- and it may be that I am just T
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being a little bit sensitive -- but there's something in Mr Shieh's closing submissions which I just want to clarify or seek to clarify. It's in paragraphs 143 and 144 of his submissions, when he deals with -- and you will probably recall the evidence, Mr Chairman, about a couple of delivery notes that were given by HBK to China State. What is said by the Commission's counsel in their submissions at paragraph 144 is:

"According to China State, these delivery notes were submitted to the [Housing Authority's] project clerk of works at the [Housing Authority's] request under the cover of two memos ..."

Then the memos are referred to. As I say, maybe I am being a little bit sensitive, but he said the wording, "According to China State". Mr Chairman, we have dealt with this point in paragraph 24, subparagraph (13) of our interim submissions in relation to Kai Ching, when we point out that the Housing Authority, through their leading counsel, during the course of the Inquiry, accepted that they had received those memos, accepted that they therefore had possession of those delivery notes.

So it's not just according to China State. It's according to China State and the Housing Authority. The difference is that we've called witnesses who have

spoken about those delivery notes, whereas the Housing Authority, of course, have not called anybody to explain (a) why they asked for them in the first place and (b) whether they actually looked at them in the second place.

Maybe I'm just being a bit sensitive but I just wanted to make that clear.

Chairman, that's all I have to say, unless I can assist you further.

CHAIRMAN: (In English) Thank you. All right.

Lunchtime. Yau Lee and Ming Hop will come in the afternoon, so a long lunch. Thank you.

(11.13 am)

(The luncheon adjournment)

(2.34 pm)

Submissions by MR LI

MR LI: I'm so sorry that you have to come in the afternoon to receive my submission.

In making my submission for my three clients, I first want you to accept the interim submissions made by us. A few days ago, we have also submitted our final submission for this case. I ask for the submissions to be adopted and I am not going to repeat what's in my submission.

Regarding the position of my three clients, before

I make my final submission, I would like to say that I have no comments to make on the COI's SC; and also the HA's submission, I have also no comments to make. But regarding the submissions by Hang Lee, of course they are not legally represented but in relation to their written submissions, I urge the COI to refer to the verbatim record. Also, the COI's counsel, legal team, has a very detailed analysis of their statements or evidence, and I would not spend further time to elaborate on the evidence.

Regarding WSD's submission, perhaps I should briefly go through it. Page 28, paragraph 48.

CHAIRMAN: WSD's?

MR LI: Yes.

I would like to add a footnote here. The WSD analysed Mr Ng Hak Ming's evidence. Given the limited passage allowed, WSD has made a summary of Mr Ng's evidence. In the middle:

"(In English) ... Mr Ng accepted that he could not recall if he himself had told them clearly that the solder used had to be lead-free ..."

The summary is rather short. May I remind the Commission that Mr Ng said more than that. He said that our position on these two contractors -- well, we have a longstanding relationship and we have co-operated in

the past. There was submission of materials even for Un Chau Estate. So it was not as simple as Mr Ng could not recall if he himself had told them clearly that the solder used had to be lead-free.

My footnote here is that the evidence was not as short as summarised here, and I am sure the Commission will have a detailed analysis of the facts before coming to judgment of the evidence.

So these are my responses to the submissions of the various parties. For my three clients, my conclusion is as follows. Our two submissions -- in the middle part of our submission, we have very clearly stated our position on the question of awareness. Because we represent Yau Lee and Ming Hop is also a subsidiary of Yau Lee, and Mr Ng Hak Ming is employed by Ming Hop, and Ming Hop or Ng Hak Ming or Wing Hing and Hang Lee or Wo Hing purchased materials from Prosperity and also Wo Hing. So there are different participants in this chain.

Since the incident, looking back, we are using a magnifying glass to consider things where people were not alerted to. Of course, looking back, we could try to identify inadequacies and we have already made our position on these inadequacies.

Before the incident happened, in the industry the

possibility of lead found in water, and also the assessment of this risk, the awareness, and also things that should be done to minimise or mitigate the risk -- there was inadequacy back then. Inadequate --

CHAIRMAN: But Mr Ng Hak Ming was an exception.

MR LI: Yes, he knew long before. We talk about

"insufficient". That is just an adjective. But

of course there can be various extents of inadequacy.

I understand your concern. Yes, Mr Ng knew very long

before, from suppliers, that lead-free solder should be

used. In formulating plans, that is on the part of

Ming Hop, indeed they did not do it to perfection.

CHAIRMAN: No, no, that's not enough. It's not just that.

What about the trade association?

MR LI: Yes, this is Mr Ng Hak Ming's point, saying that the whole industry had inadequacies. I appreciate your concern.

But if we look at the whole picture, we said that

the task was left to the wrong person or the wrong

party. That was not to shirk our responsibility.

Wing Hing and Hang Lee were two contractors used, and

based on long-term trust we are saying that there was

nothing in the past. For instance, there was no

question of them using strips without mentioning, or

that they did not submit materials as required.

Of course, we will not shirk our responsibility in this regard. But it was a longstanding relationship. For many years, we trusted the two contractors, and there was nothing in particular -- it was found subsequently that they could not be trusted. We all have a share in the responsibility; we will not deny this.

For this case, we are asked to provide evidence. We have stated our position. Our submission is that in the whole case, all stakeholders who are parties to the provision of fresh water -- our position was all had their share of inadequacies. Nobody predicted that there would be such a big incident. There was insufficient communication among the partners and there was no desirable plans formulated to prevent this Inquiry. This should not have happened in the first place.

So this is my conclusion, when it comes to the finding out of the causes, and for Yau Lee and Ming Hop, since the incident happened, a lot has been done within a very short period of time, and there was no concern, no regard for money at all. If you look at Mr Ng's evidence, a lot of filters were purchased, and the pipes were re-connected to ensure there could be temporary relief within the shortest possible period of time.

So this goes to show that for my clients, for my two clients, they recognised the importance of the matter, and their mentality was such that they would try to rectify their inadequacies leading to these consequences, and they made very speedy remedy. They were able to achieve so much within such a short period of time, I think credit should be given to them. Of course, they did not do well enough in the past, and we dare not say that the present performance can make up for their past mistakes.

So it's just a summary of our position. Please adopt my submission.

If I can be of further assistance? Nothing more.

Thank you very much.

CHAIRMAN: Thank you, Mr Li.

That being the case, we have completed today's submissions. Tomorrow may be a little bit heavier. We will start at 9.30 tomorrow, in the morning. Paul Y will come first, to be followed by the Housing Authority and ourselves.

My understanding is that Prosperity would like to send in a written submission.

MR SHIEH: Yes. It applied for more time to prepare the written submission, but that request was already turned down.

CHAIRMAN: I said, if there was to be a written submission,
it had to be in by 1 pm tomorrow.

MR SHIEH: Because in the submission of one of the
subcontractors, there might be implications. So we are
not talking about a lot of points. It's just to give
them a chance to respond to those accusations.

As far as I understand, if they would like to take
this opportunity to respond to these accusations, they
should submit a written submission by 1 pm tomorrow, and
if they would like to do it in the afternoon --

CHAIRMAN: It doesn't matter. We can accommodate them.

MR SHIEH: I'm not going to spend the whole afternoon, so if
Prosperity would like to make submission in the
afternoon --

CHAIRMAN: No, they already said they would not give any
oral submission but a written one, and I already said
that the written submission has to be in by 1 pm.

So we will meet again at 9.30 tomorrow.

(2.46 pm)

(The hearing adjourned until 9.30 am the following day)

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