

# ASEANSAI SYMPOSIUM ON GOOD GOVERNANCE

RIZQUN INTERNATIONAL HOTEL  
BRUNEI DARUSSALAM

28 NOVEMBER 2012

## Port Klang Free Zone (PKFZ)

***“ LESSONS LEARNED ”***

**BY:**

**MADAM SAADATUL NAFISAH BT BASHIR AHMAD**

**DEPUTY AUDIT DIRECTOR**

**NATIONAL AUDIT DEPARTMENT**

**MALAYSIA**

**NATIONAL AUDIT DEPARTMENT  
MALAYSIA**



# WHY WE CHOOSE PKFZ?

***“BIGGEST SCANDAL SNIFFED BY  
SAI OF MALAYSIA”***

# **NEWS REPORTS ON PKFZ'S HEARING**

NSF 14/9/2011

# 'Finance Ministry considered repossession'

**KUALA LUMPUR:** The Finance Ministry did not follow the cabinet's directive with regard to a land purchase in Pulau Indah as it wanted to consider the best approach in acquiring the land, the High Court here was told yesterday.

Former Transport Ministry secretary-general Datuk Zaharah Shaari said although the cabinet had decided to purchase the land, it had also requested the ministry to assess the decision.

She said on March 24, 1999, the cabinet gave a directive to proceed with the land purchase but the ministry suggested the property be obtained by repossession.

"The cabinet had approved the purchase but also stated that the ministry follow up on the proposal and do an evaluation of the land price. The issue that needed to be settled was whether the Port Klang Authority (PKA) or government really needed the land," she said during an examination-in-chief by deputy public prosecutor Adilla Ahmad.

Pursuant to a directive (to repossess rather than purchase the land) from the ministry, Zaharah, 62, in her capacity as secretary-general (from 1999 until 2005) held follow-up meetings to the effect.



She said during a meeting on June 18, 2001, the members agreed to include a representative from the ministry and from the land and mineral director-general's office.

On the 7.5 per cent interest, she said the report handed to her by the PKA was vague and brought it to the attention of former transport minister Tun Dr Ling Liong Sik but was unsure if she followed it up with a letter.

Zaharah is the sixth prosecution witness in the trial of Dr Ling, who is charged with cheating the government by misleading the cabinet into approving the purchase of land in Pulau Indah for the mega distribution hub project in Port Klang, based on the terms between Kuala Dimensi Sdn Bhd and PKA.

Trial before Justice Datuk Ahmadi Asnawi continues today. — Bernama



# Witness: Ling aware of price

By V. Anbalagan

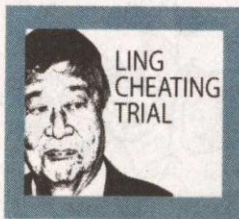
anba@nst.com.my

**KUALA LUMPUR:** Tun Dr Ling Liong Sik knew the price recommended by the government valuation agency for a piece of land for the Mega Distribution Hub project, but he painted a different picture to former prime minister Tun Dr Mahathir Mohamad.

Dr Ling, who is charged with cheating the government, had chaired two meetings in January 2002 on the project, and two valuation officers were present to give their views.

Yet, Dr Ling, in a letter dated June 29 that year to Dr Mahathir, provided varied terms and conditions to purchase the land from Kuala Dimensi Sdn Bhd.

Former Valuation and Property Service Department director-general Datuk Mani Usilapan told the High



Court yesterday, the agency had valued the property at RM21 per square foot for Port Klang Authority (PKA) to purchase the land for cash.

Mani, who was one of the officers who attended both meetings, said the RM25 psf price could also be considered if the purchase was based on a deferred payment over a 10-year period.

He said he attended the meetings on Jan 26 and 30, which were chaired by Dr Ling, who was then transport minister.

Mani, 61, was then the department deputy director-general and was promoted director general in 2005.

PKA, which comes under the purview of the ministry, wanted to buy the property — over 404.5ha in Pulau Indah — for the project.

The ministry had sought the expertise of the department to buy the property.

Mani, who was examined by deputy public prosecutor Manoj Kurup, said the department recommended RM21 psf as a valuation exercise was carried out earlier.

"The RM21 psf is a special price and RM25 psf is based on other terms and consideration," he said.

Mani, however, said at the meeting on Jan 30, he had given options that the land could either be acquired or purchased at RM21 psf.

**Manoj:** Was the accused present at the Jan 26 and 30 meetings when you

explained your department's stand?

**Mani:** Yes.

Manoj then referred Mani to a letter Dr Ling wrote to Dr Mahathir, which outlined the terms and conditions of the sale and purchase agreement between PKA and Kuala Dimensi.

Among others, it stated that the land could be purchased at RM25 psf, payment period was 15 years and interest imposed was 7.5 per cent.

Mani said the terms in the letter to Dr Mahathir were different than that suggested by the department over a period of time.

Cross-examined by Wong Kean Kheong, who is representing Dr Ling, Mani said he could not give a firm answer whether the market value for the land had gone up since the department valued the property in May 2000, but PKA and Kuala Dimensi signed the sale and purchase agree-

ment two-and-a-half years later.

Mani said throughout his tenure as director-general, he was not queried about the difference in price for the land.

**Wong:** Did you receive any complaint from the cabinet?

**Mani:** I can't remember.

He told the lawyer that there were also no statistics to show that all the recommendations by the department had been followed by the government.

Dr Ling, 67, is alleged to have deceived the cabinet into agreeing on the land purchase.

He is said to have committed the offence in 2002 by failing to disclose material facts, including the 7.5 per cent interest rate, to the cabinet, and this resulted in a loss to the government.

Hearing before judge Datuk Ahmad Asnawi continues.



# 'Buying plot in cash was on ministry's advice'

By V. Anbalagan  
anba@nst.com.my

**KUALA LUMPUR:** The Finance Ministry had suggested that the Port Klang Authority (PKA) purchase a piece of land for the Mega Distribution Hub project in cash.

Former Transport Ministry deputy director-general Datuk Abdul Rahman Mohd Noor said this advice was later communicated to Tun Dr Ling Liong Sik.

Rahman, 61, said the advice came from Treasury senior officer, Abdul Rahim Mokti, who chaired a meeting in November 2000. He suggested that the Treasury could provide the loan to buy the 399.8ha property in Pulau Indah.

Rahman said, at the meeting, the officer notified him that PKA had to reveal its cash flow to determine whether it was capable of settling the loan.



"He suggested that PKA issue bonds to raise funds to repay the government," he said when examined by deputy public prosecutor Datuk Tun Majid Tun Hamzah.

Rahman, who was then also a PKA board member, said he had sent a memo to Dr Ling who was then transport minister.

**Tun Majid:** So what is your understanding of cash?

**Rahman:** RM21 per square feet (psf).

He was testifying at the trial of Dr Ling who is charged with cheating the government by his failure to dis-

close the 7.5 per cent interest element imposed on the property.

The charge stated that due to the imposition of the interest, PKA paid land owner Kuala Dimensi Sdn Bhd (KDSB) RM1.808 billion or RM25 psf while the Valuation and Property Service Department recommended RM1.088 billion.

The RM25 psf value was suggested for the land after taking into account, among others, a six per cent rate and a deferred payment over a 10-year period.

Dr Ling was alleged to have concealed the 7.5 per cent interest from the cabinet in 2002, and had the information been disclosed, the cabinet would not have given approval to purchase the land. The fraud was allegedly committed with the knowledge that Dr Ling could cause a loss to the government.

Dr Ling also faces two alternative charges of cheating the government.

Rahman said the project was initiated to expand cargo capacity and make Port Klang a leading seaport in the region.

He said PKA received an offer from KDSB in January 1999 to buy 332ha, excluding infrastructure development, at RM28 psf or RM1.12 billion, and the matter was brought to the cabinet's attention.

He said the proposal then was for the government to buy the property and lease it to PKA.

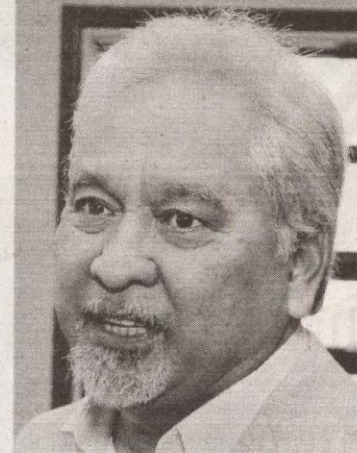
Rahman said the Valuation and Property Service Department was asked to value the land and it quoted it at RM21 psf as at May 2000.

The department then proposed RM25 psf on a deferred payment basis. "We had the option to buy the property for cash or deferred payment. The RM25 psf took into account the finance cost," he said.

Hearing continues before judge Datuk Ahmadi Asnawi.

“THE VALUATION AND PROPERTY SERVICE DEPARTMENT WAS ASKED TO VALUE THE LAND AND IT QUOTED IT AT RM21 PSF AS AT MAY 2000.”

— Datuk Abdul Rahman Mohd Noor  
Former Transport Ministry deputy director-general





# Extra RM720m paid

Ling hid facts from cabinet in land purchase, says prosecution

By V. Anbalagan  
anba@nst.com.my

**KUALA LUMPUR:** Port Klang Authority (PKA) paid RM720 million more than the government valuation price to purchase a piece of land for the Mega Distribution Hub project.

The Valuation and Property Service Department had recommended RM1.088 billion to buy 999.5 acres at RM25 per sq ft (psf).

However, the property was purchased from Kuala Dimensi Sdn Bhd at RM1.808 billion.

This was revealed by deputy public prosecutor Datuk Tun Majid Tun

Hamzah in his opening statement at the cheating trial of former transport minister Tun Dr Ling Liong Sik.

Tun Majid told the High Court yesterday that the prosecution would produce evidence that the land was first valued at RM18 psf.

It was later raised to RM21 psf after the department had taken

into consideration that the property sale was inclusive of infrastructure development.

He said the value of the land was further raised to RM25 psf which, among others, included a six per cent interest over a 10-year period.

TURN TO PG 2, COL 1

## 7.5pc interest added later, court told

FROM PAGE 1

However, a further 7.5 per cent interest was later added to the land price, bringing the value to RM1.808 billion.

Tun Majid, who is also head of prosecution in the Attorney-General's Chambers, said the accused and the Transport Ministry knew of the valuation price recommended by the department.

"We will bring evidence that the time minister at that time was briefed on the negotiations between PKA and Kuala Dimensi and the terms as agreed by the department."

He said Dr Ling had concealed material facts when the cabinet gave approval to purchase the land on Nov 6, 2002.

Dr Ling, 67, is alleged to have deceived the government into agreeing to the land purchase in Pulau Indah for the project in Port Klang.

He is said to have committed the offence between Sept 25 and Nov 6, 2002, at Level 4, Prime Minister's Office, Bangunan Perdana Putra, Putrajaya.

The fraud was allegedly committed with the knowledge that he could cause a loss to the government, when he had an interest in the transaction and was bound under the law to protect it.

PKA comes under the jurisdiction of the Transport Ministry.

Dr Ling also faces two alternative charges of cheating the government by failing to disclose the 7.5 per cent interest rate to the cabinet when he knew of the recommendation made by the department.

The cabinet would not have agreed to the purchase if the facts had been disclosed, the prosecution alleges.

Former director-general of the valuation and Property Service Department, Datuk Sahari Mahadi, who was called as a witness, said the agency quoted RM18 psf as market value for the property some-



Former transport minister Tun Dr Ling Liong Sik with his wife and children at the High Court in Kuala Lumpur yesterday.

time in 2000.

Sahari, 63, said he was not directly involved in this case but a subordinate went through the file, which came from the Selangor branch.

He said the RM21 psf was quoted

as "special price", after taking into consideration reports by private valuers engaged by Kuala Dimensi.

"The value went up because the land sale would include infrastructure development by Kuala Dimensi."

Witness Teo Lee Lee, a retired government valuer, said she assessed the property sometime in November 1998 and recommended a price of RM17 psf, provided Kuala Dimensi made available the infrastructure.

Dr Ling arrived in court about 8.30am, accompanied by wife Ena Ling, and sons Hee Leong and Hee Keat.

Hearing before judge Datuk Ahmad Asnawi continues.



# Ting: Land deal signed without cabinet nod

By V. Anbalagan  
anba@nst.com.my

**KUALA LUMPUR:** Former Port Klang Authority (PKA) chairman Tan Sri Dr Ting Chew Peh told the High Court here yesterday that he signed the sale and purchase agreement to buy a 999.5-acre land without cabinet approval despite being aware of government procedures.

Ting, who was housing and local government minister between 1990 and 1999, said the official procedure was to obtain the extract of the cabinet minutes before implementation.

Ting was PKA chairman between 2000 and 2004.

He told deputy public prosecutor Manoj Kurup under examination-in-chief that the agreement was signed with Kuala Dimensi Sdn Bhd (KDSB) on Nov 12, 2002.

The approval to purchase the land was only made official through a Finance Ministry letter on Nov 20, 2002. Cabinet had given the approval to purchase the land on Nov 6, 2002.

**Manoj:** Was the agreement signed before the official announcement?



**Ting:** I was not aware about that.

**Manoj:** The agreement was signed eight days before the official confirmation.

**Ting:** Yes, but there was nothing in black and white.

He said the agreement could have been prepared by PKA general manager O.C. Phang or the PKA legal adviser.

Ting, 68, was testifying in the trial of former transport minister Tun Dr Ling Liong Sik, who is charged with cheating the government by his failure to disclose the 7.5 per cent interest element imposed on the property earmarked for the Port Klang Free Zone (PKFZ) project in Pulau Indah.

The charge stated that due to the imposition of the interest, PKA paid KDSB RM1.808 billion or RM25 per square feet for the land while the



Tan Sri Dr Ting Chew Peh was Port Klang Authority chairman between 2000 and 2004

Valuation and Property Service Department recommended RM1.088 billion.

The RM25psf value was suggested for the land after taking into account, among other things, a six per cent interest rate and a deferred payment over a 10-year period.

Dr Ling, 68, was alleged to have concealed the 7.5 per cent interest rate and had the information been disclosed, the cabinet in 2002 would not have given approval for the land

purchase.

Ting also disclosed that he was aware there was a debate whether land for the PKFZ project was to be acquired or purchased when he was in the cabinet until 1999.

He said as PKA chairman, it was once discussed at a board meeting that land acquisition for the project would be a problem as it was time consuming.

Ting said that was the reason the board took the stand to purchase the property while the cabinet was still deliberating whether to acquire or buy the land.

"The cabinet had yet to make a decision, but we (PKA) were pushing for the purchase of the property."

Ting said PKA board members were only told of the approval to purchase on Nov 15, 2002, although the agreement was signed three days earlier.

**Manoj:** Was the board informed about the sale and purchase agreement which was already signed?

**Ting:** I can't remember.

**Manoj:** Did you inform the board?

**Ting:** I can't remember.

Hearing before judge Datuk Ahmad Asnawi continues.



# 'Deal made a day after cabinet nod'

NST 17/8/2011

By V. Anbalagan

anba@nstp.com.my

**KUALA LUMPUR:** A land transaction between Port Klang Authority (PKA) and Kuala Dimensi Sdn Bhd (KDSB) was concluded even before a cabinet decision was made official.

The cabinet decided on Nov 6, 2002, that PKA could go ahead to purchase the property on a 999.5-acre site for the Mega Distribution Hub project in Pulau Indah.

The cabinet decision was only made public two weeks later by the Transport Ministry Maritime division secretary Datuk Zakaria Bahari.

However, it was revealed in the High Court here yesterday that on Nov 6, the then PKA general manager O.C. Phang had issued an offer letter to KDSB to purchase the property.

Former Transport minister deputy secretary-general Datuk Abdul Rahman Mohd Noor, who was on the witness stand, said KDSB had agreed to sell the land to PKA on Nov 7, a day after the cabinet decision.

"KDSB and PKA signed the sale and purchase agreement on Nov 12, 2002," Rahman said when examined by deputy public prosecutor Datuk Tun Majid Tun Hamzah.

**Tun Majid:** So, all three events (offer letter, KDSB's reply to sell the land and the signing of the agreement) were before Zakaria's letter?

**Rahman:** Yes.

Zakaria, had on Nov 20, 2002, written a letter to Phang to inform her that the Cabinet had approved a



proposal to purchase the land from KDSB.

A copy was sent to Rahman, who was also a PKA board member.

The cabinet, chaired by former prime minister Tun Dr Mahathir Mohamad, finally approved the land purchase after having deferred its earlier decision made on Oct 2, 2002.

The delay was due to the Treasury's insistence that the government acquire the land at RM10.16 per square feet (psf).

**Tun Majid:** Have you attended post cabinet meetings?

**Rahman:** Yes.

**Tun Majid:** Do you know if extracts of the cabinet meeting minutes were made available on the same day?

**Rahman:** Not the same day.

**Tun Majid:** Usually, when?

**Rahman:** Later. The minutes are usually approved at the following cabinet meeting.

He was testifying at the trial of former transport minister Tun Dr Ling Liong Sik who is charged with cheating the government by his failure to disclose the 7.5 per cent interest element imposed on the property.

The charge stated that due to the imposition of the interest, PKA paid landowner KDSB RM1.808 billion or

RM25psf while the Valuation and Property Service Department recommended RM1.088 billion.

The RM25psf value was suggested for the land after taking into account, among others, a six per cent interest rate and a deferred payment over a 10-year period.

Dr Ling was alleged to have concealed the 7.5 per cent interest rate and had the information been disclosed, the cabinet in 2002, would not have given approval for the land purchase.

Rahman said the land purchase was never brought before the PKA board of directors' meeting for approval although such a matter should have been discussed.

He said former chairman Tan Sri Ting Chew Peh signed the agreement on behalf of PKA while Phang was a witness.

Cross-examined by Dr Ling's lawyer, Wong Kean Kheong, Rahman said PKA board members, among others, comprised those from the transport and finance ministries, the economic planning unit in the prime minister's department and the Selangor government.

He said two private valuers had rated the land price at RM26psf and RM29psf. He added that he was not trained, qualified nor had the experience in land dealings.

Rahman said that the RM25psf was inclusive of 7.5 interest rate was only his understanding, and no one told him of that.

Hearing continues before judge Datuk Ahmadi Asnawi.



# 'I told Ling he may have gone wrong over deal'

By V. Anbalagan  
anba@nst.com.my

**KUALA LUMPUR:** A former senior civil servant once told former transport minister Tun Dr Ling Liong Sik to refrain from dealing with a landowner for the Port Klang Free Zone project as it was contrary to law and public policy.

Datuk Zaharah Shaari, who was the Transport Ministry secretary-general between 1999 and 2005, said this was regarding whether to buy or acquire the land from Kuala Dimensi Sdn Bhd (KDSB).

Zaharah, under cross-examination by lawyer Wong Kean Kheong, said she told Dr Ling that he might have gone wrong over the PKFZ deal



after a post-cabinet meeting.

**Wong:** Did you at any time tell the accused that he might have acted against the law or public policy over the PKFZ project?

**Zahariah:** Yes, once.

**Wong:** What is it?

**Zaharah:** His action to negotiate with KDSB on whether to buy or acquire the land for the PKFZ project.

She said it was the duty of senior

civil servants to rectify any mistake or oversight by the cabinet.

**Wong:** Do you have a way to overcome a problem if cabinet decisions are not adhered to or procedures are not followed?

**Zaharah:** As senior civil servants we can inform the Chief Secretary to the Government if procedures are not followed. However, this hardly happens.

To a question by Wong, Zaharah said Dr Ling had no preference whether the land was to be acquired or purchased from KDSB.

On another matter, Zaharah said she did not have personal knowledge how the Valuation and Property Service Department recommended the RM25 per square foot price

to the ministry.

She said a document prepared by the department stated that a six per cent interest rate be imposed if the 999.5 acre land was to be purchased at RM25 per square foot over a 10-year period.

Zaharah was testifying at the trial of Dr Ling, who is charged with cheating the government by his failure to disclose a 7.5 per cent interest element imposed on the property.

The charge stated that because of the imposition of the interest, Port Klang Authority paid KDSB RM1.808 billion while the recommended price was RM1.088 billion.

Hearing continues before judge Datuk Ahmadi Asnawi.



# Ex-manager aware of violating procedures

By V. Anbalagan  
anba@nst.com.my

**KUALA LUMPUR:** The Port Klang Authority (PKA) paid two per cent earnest money to Kuala Dimensi Sdn Bhd (KDSB) to show its commitment following approval by the cabinet to purchase a 999.5-acre (404.4ha) property for the Port Klang Free Zone (PKFZ) project.

Former PKA general manager O.C. Phang told the High Court that the land transaction needed to be sealed soon as the project had been delayed for three years.

Phang, 65, said this yesterday when under examination-in-chief by deputy public prosecutor Datuk Tun Majid Tun Hamzah as to why the earnest sum was paid before PKA and KDSB signed the sale and purchase agreement.

PKA paid KDSB RM21.7 million on Nov 7, 2002. A further RM87 million was paid subsequently to make up the 10 per cent deposit, one of the terms in the agreement.

Both parties signed the agreement five days later on Nov 12 to buy the property at RM1.08 billion plus 7.5 per cent interest over a 15-year period.

Phang, the 14th prosecution witness, said she also received a call from then Transport Ministry deputy secretary-general Datuk Abdul Rahman Mohd Noor to get the project moving since the cabinet had given the nod to purchase the property.

PKA came under the purview of the ministry and Rahman was also



PKA deputy chairman.

Phang said on Nov 6, then PKA financial manager Rohasnah Othman came to see her and explained that no payment could be made without official documents.

"I told her the earnest payment was a priority upon approval (by the cabinet)," she said, adding that she was aware of violating procedures but was prepared to take the risk.

Phang said PKA only lost RM43,000 as a result of redeeming fixed deposits ahead of the maturity period to raise the RM21.7 million.

She was testifying at the trial of former transport minister Tun Dr Ling Liong Sik, who is charged with cheating the government by failure to disclose a 7.5 per cent interest element imposed on the PKFZ project.

The charge stated that due to the imposition of the interest, PKA paid KDSB RM1.808 billion or RM25 per square feet for the land while the Valuation and Property Service Department recommended RM1.088 billion.

The RM25 psf value was suggested for the land after taking into account, among other things, a six per cent interest rate and a deferred payment over a 10-year period.



Former Port Klang Authority general manager O.C. Phang says she was told to get the project moving since the cabinet had given the nod

Dr Ling, 68, is alleged to have concealed the 7.5 per cent interest rate and had the information been disclosed, the cabinet would not have given approval for the purchase.

Under further examination by Tun Majid, Phang said she signed an "administrative letter" in June 2003 but was unsure whether it was for the

purpose of issuing bonds.

**Tun Majid:** Were you aware that this was a letter of support to sign away your right to KDSB?

**Phang:** Only when it was made known at the Public Accounts Committee inquiry and by the media.

Hearing before judge Datuk Ahmad Asnawi continues.



# 'Phang told she breached rules'

**By V. Anbalagan**  
anba@nst.com.my

**KUALA LUMPUR:** Former Port Klang Authority (PKA) general manager Datuk Paduka O.C. Phang was ready to take responsibility for violating financial procedures to settle RM21.7 million in earnest payment to land owner Kuala Dimensi Sdn Bhd (KDSB).

Retired PKA financial manager Rohasnah Othman told the High Court that she reasoned with Phang that no payment could be made as there was no official cabinet approval nor documents to purchase the land.

However, Phang instructed her to proceed with the payment.

Rohasnah, who retired in 2008, told the court under examination-in-chief by deputy public prosecutor Datuk Tun Majid Tun Hamzah yesterday that PKA had to obtain approval from the Treasury for any transaction which exceeded RM100 million.

The cabinet had on Nov 6, 2002 approved the purchase of 999.5 acres of land in Pulau Indah for the Port Klang Free Zone (PKFZ) project.

KDSB signed the sale and purchase agreement on Nov 12, 2002 to buy the property at RM1.08 billion plus 7.5 per cent interest over a 15-year



period. The government only gave the official nod to buy the property on Nov 20, 2002.

**Tun Majid:** Did you meet Phang to explain why payment could not be made to KDSB?

**Rohasnah:** Yes. She told me to proceed, adding she was prepared to take responsibility for violating the Treasury regulations and PKA in-house rules.

Rohasnah said she then instructed her officer to call several banks to redeem fixed deposits before the maturity period in order to raise RM21.7 million. The payment was made to KDSB on Nov 7, 2002.

She said PKA had about RM100,000 in a current account for operating expenditure but the rest of the funds were in fixed deposits.

**Tun Majid:** How much did PKA lose as a result of redeeming the fixed deposits ahead of maturity?

**Rohasnah:** RM43,000.

Under the agreement, PKA had to

pay 10 per cent of the total purchase price for the land which was RM1.08 billion.

The RM21.7 million was part of the deposit. A further RM65.5 million was paid in December 2002 while another RM21.5 million was settled in January 2003.

Rohasnah was testifying at the trial of former transport minister Tun Dr Ling Liong Sik, who is charged with cheating the government by his failure to disclose the 7.5 per cent interest element imposed on the property earmarked for the PKFZ project. The charge stated that due to the imposition of the interest, PKA paid KDSB RM1.808 billion or RM25 per square feet for the land while the Valuation and Property Service Department recommended RM1.088 billion.

The RM25 psf value was suggested for the land after taking into account, among other things, a six per cent interest rate and a deferred payment over a 10-year period.

Dr Ling, 68, is alleged to have concealed the 7.5 per cent interest rate and had the information been disclosed, the cabinet, in 2002, would not have given approval for the land purchase.

Hearing before judge Datuk Ahmad Asnawi continues.



# 'PKA unable to buy land'

Authority could not afford purchase for PKFZ, says former Ministry man

**KUALA LUMPUR:** The Port Klang Authority (PKA) was under financial strain and could not afford to buy the 335.8ha piece of land in Pulau Indah for the Port Klang Free Zone project, a former senior Transport Ministry official told the High Court.

Abdul Rahman Noor, 63, who was then the Transport Ministry Planning Division's deputy secretary-general, testified yesterday that PKA's financial standing would have worsened if it had purchased the land.

"Even if the Government had given a 50% subsidy for the project, it would still be in deficit.

"It could not afford to buy the land," he said, adding that it did not

have solid internal finances for such a purchase.

He said this during his examination-in-chief by Deputy Public Prosecutor Datuk Tun Abdul Majid Hamzah.

Abdul Rahman also told the court the Finance Ministry, via senior official Abdul Rahim Mokti, had proposed for PKA to purchase the land with a loan from the Government.

He said this transpired during a meeting chaired by Abdul Rahim on Nov 2, 2000, which involved senior officials from the Finance Ministry, Transport Ministry and the Valuation and Property Services Department, as well as PKA.

"For this, PKA was asked to provide a cash flow projection to evaluate whether it could afford to finance (the acquisition) and the government loan repayment," he said.

He added that the Finance Ministry had also suggested that PKA issue bonds to help with its loan repayment.

He said the details of this meeting were disclosed to former Transport Minister Tun Dr Ling Liong Sik in a memorandum dated Nov 6, 2000.

Dr Ling has claimed trial to an amended principal charge of deceiving the Government by not exposing to the Cabinet an additional interest rate of 7.5% annually for the purchase of land for the Port Klang Free

Zone project.

He faces two optional charges of cheating the Government by not exposing to the Cabinet facts pertaining to the interest rate, and deceiving the Cabinet into believing that facts on the land purchase at RM25psf and 7.5% interest rate were certified and agreed to, by the Finance Ministry's Valuation and Property Services Department when he knew there was no such consent.

Dr Ling is said to have committed the offences at the Prime Minister's office in Putrajaya between Sept 25 and Nov 6, 2002.

Hearing before Justice Ahmadi Asnawi continues today.



# PKFZ land deal 'defied procedure'

> Offer letter signed before ministry  
was notified of cabinet approval

BY **PAULINE WONG**  
newsdesk@thesundaily.com

**KUALA LUMPUR:** The purchase of land for the Port Klang Free Zone (PKFZ) worth RM1.088 billion by Kuala Dimensi Sdn Bhd (KDSB) was made in defiance of normal procedure, the High Court heard yesterday.

Former Transport Ministry deputy secretary-general Datuk Abdul Rahman Mohamad Noor testified that former Port Klang Authority (PKA) general manager O.C. Phang had signed an offer letter for KDSB to purchase the 999.5 acres in Pulau Indah on Nov 6, 2002, two weeks before an official extract of cabinet approval was issued to the ministry. The letter was sent on the same day of a cabinet meeting which approved the land buy.

Questioned by DPP Tun Abdul Majid Tun Hamzah, Abdul Rahman said the official extract detailing the decision of the cabinet on Nov 6 was forwarded to him by the then ministry directives department secretary Zakaria Bahari on Nov 20.

**Abdul Majid:** "The offer letter from O.C. Phang and its subsequent acceptance by KDSB the day after were both signed and sent before an official letter from Zakaria informing the ministry of the cabinet's approval?"

**Abdul Rahman:** "Yes."

Abdul Rahman also admitted that the offer letter was not presented to the PKA's board of directors, of which he is a member, as is customary. He agreed that such agreements should have board approval.

The sales and purchase agreement between the PKA and KDSB was signed on Nov 12.

Abdul Rahman is the fourth witness in

former transport minister Tun Dr Ling Liong Sik's trial for cheating. He is charged under Section 417 and 418 of the Penal Code for deceiving the cabinet by withholding details of terms and conditions agreed by KDSB and PKA.

Ling is accused of failing to disclose facts about an interest of 7.5% a year, in addition to the cost of the land at RM25 per sq ft, which brought the total cost of the megahub project to RM1,088,456,000. The two charges carry a maximum

sentence of seven and five years imprisonment respectively or fine or both.

During cross-examination, defence counsel Wong Kian Kheong suggested that Abdul Rahman had not told his then superior, Ling, that the price tag for the land was an overall cost inclusive of interest. He also pressed the witness on his testimony on Monday on the cost of the land, which he had said was RM25 per sq ft.

Under questioning, Abdul Rahman revealed that land valuation reports from the Valuation and Property Service Department had not, in actuality, explicitly stated RM25



Abdul Rahman, Ling and Datin Seri Ena Ling at the High Court yesterday.

per sq ft as an all-inclusive value. Instead, he said, he was made aware of this figure after attending several meetings.

Asked whether he had sent notes, memos or letters to Ling on the reports, which were sent to the ministry on Sept 29, 2000, Abdul Rahman said he had not.

**Wong:** Seeing that no memo or notes were sent, do you agree that Ling never saw the valuation reports?

**Abdul Rahman:** Possibly.

The hearing before Judge Datuk Ahmadi Asnawi resumes today.

ZULKIFLI ERSAL / THES

TP(S)  
KPP(S)/  
PPC(S)  
in



# 'Kuala Dimensi allowed to raise bond'

7/10/2011

**KUALA LUMPUR:** Kuala Dimensi Sdn Bhd (KDSB), which sold 999.5 acres of land to Port Klang Authority (PKA) for the Port Klang Free Zone project, was allowed to raise bonds to get the money.

Retired Finance Ministry deputy secretary-general Datuk Abdul Rahim Mokti told the High Court he came to know that KDSB was authorised to raise bonds for the property.

However, he said he did not know the details.

Rahim, who retired in 2006, said this when questioned by deputy public prosecutor Datuk Tun Majid Tun Hamzah.

**Tun Majid:** Did you know KDSB issued bonds?

**Rahim:** Yes, I came to know about it.

**Tun Majid:** Were you involved in the discussion to allow KDSB to issue bonds?

**Rahim:** No.

**Tun Majid:** Were the bonds issued to pay for the land?

**Rahim:** Yes, but I do not know the details.

At this juncture, trial judge Datuk Ahmad Asnawi, who appeared surprised, interjected and asked whether KDSB really issued bonds.



Tun Majid told the judge that the prosecution would produce another witness to reveal the matter.

Rahim was testifying at the trial of former transport minister Tun Dr Ling Liong Sik, who is charged with cheating the government by his failure to disclose a 7.5 per cent interest element imposed on the PKFZ property.

The charge stated that due to the imposition of the interest, PKA paid KDSB RM1.808 billion for the land while the Valuation and Property Service Department recommended RM1.088 billion.

As a result, a double interest was imposed and the government paid an extra RM720 million.

The department had suggested the RM25 psf value for the land over a 10 year deferred payment after taking into account, among other things, a six per cent interest rate.

Dr Ling, 68, is alleged to have con-



**Datuk Abdul Rahim Mokti says he came to know that KDSM was authorised to raise bonds for the property**

cealed the 7.5 per cent interest rate and had the information been disclosed, the cabinet, in 2002, would not have given approval for the land purchase.

Earlier he told the court that the (Valuation and Property Service) department director-general Datuk Shaari Mahadi had, in September 2000, recommended the RM25 psf and bonds to be issued to raise money.

He said Dr Ling sent a letter on June 29, 2002, to the then prime minister Tun Dr Mahathir Mohamad and stated that the 999.5 acres would be purchased at a special value of RM25psf at RM1.08 billion.

Rahim said there was also a separate clause in the terms and condition, which mentioned an annual 7.5 per cent interest.

**Tun Majid:** Is the RM25 psf separate from the 7.5 per cent interest?

**Rahim:** Yes.

**Tun Majid:** What is your understanding of the 7.5 per cent?

**Rahim:** It is over and above the RM1.08 billion and tantamount to double interest.

He said that the terms and conditions as provided to Dr Mahathir were not specifically referred to the Finance Ministry for its comment.

Rahim said a transport ministry note to the cabinet on Oct 29, 2002, only mentioned the RM25 psf to purchase the property but there was no mention on the issuance of bonds.

Hearing continues.



# LOCATION OF PKFZ



# FACILITIES PROVIDED

PRECINCT	FACILITIES	ACRES	RENT PER YEAR (RM)
PRECINCT 1 & PRECINCT 4	Prepared Land for Logistics and Warehousing	788	1.80 p.s.f.
PRECINCT 2 & PRECINCT 8	Prepared Land for Heavy Industry (Manufacturing)		
PRECINCT 6 & PRECINCT 7	Prepared Land for Medium and High Tech Industry		
PRECINCT 3	512 Light Industrial Units and Warehousing	165	18.00 p.s.f.
PRECINCT 5	Leased Office Buildings, business Class Hotel, Exhibition and Trade Centre, Customs Office, PKFZ Authority Office	47	22.80 p.s.f.

NATIONAL AUDIT DEPARTMENT

MALAYSIA



**Part of Open Lot have been Leased**



**Light Industrial Units and Warehousing**



**Part of Office Complex For Rent**



**PKEZ Sdn. Berhad (Subsidiary) Office**

# HOW IT BEGAN?

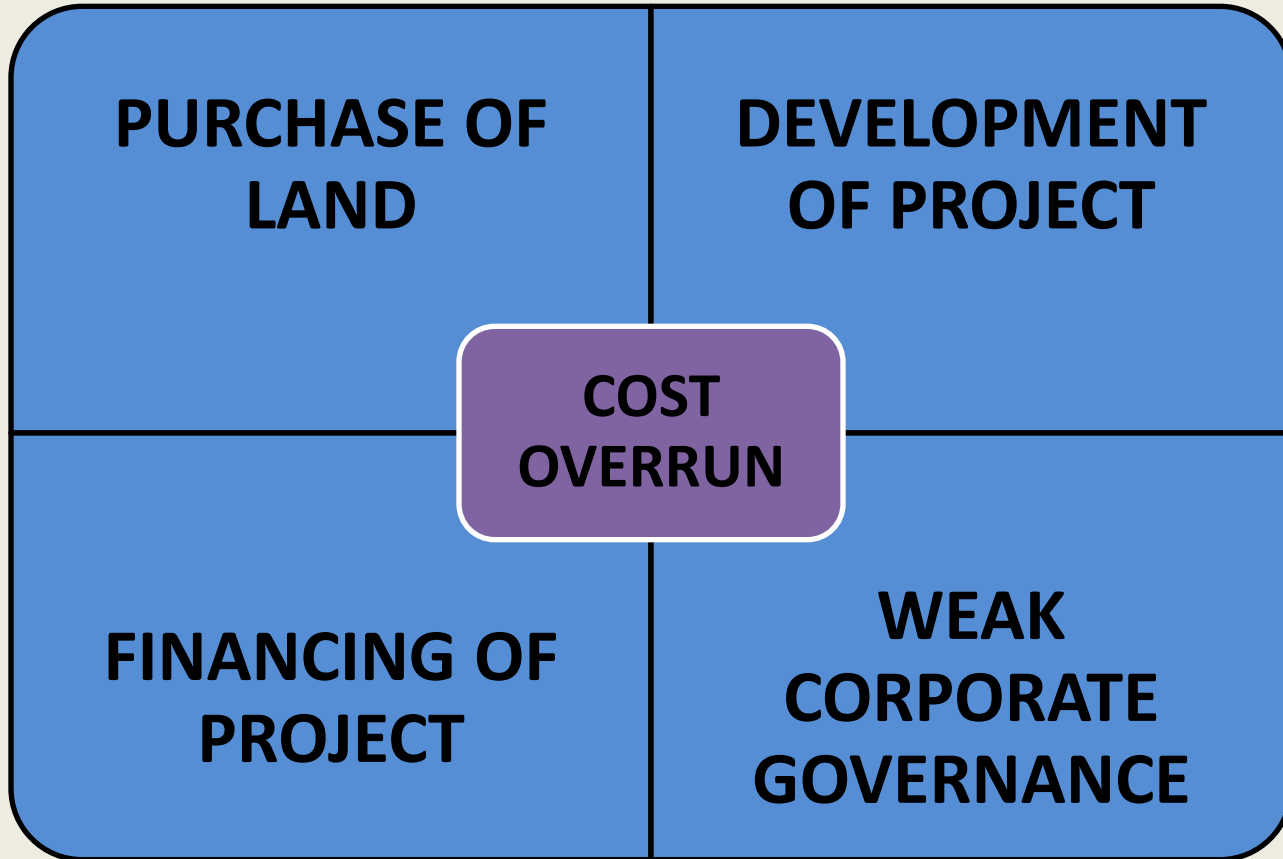
**Started with Auditor General's Certificate on Financial Statement of Port Klang Authority (PKA) for the year 2003 about PKA did not have sufficient financial resources to meet its obligations - "Contingent Liabilities of RM1.81billion (USD 600 million)".**

**Qualified Report was given to PKA until 2005 on this matter.**

**In 2006, a Performance Audit was performed by the SAI on this project and reported to the Cabinet, Ministry of Finance and Ministry of Transport.**



# MAIN ISSUES



# IMPACT

## Serious Cost Overrun

- Estimated cost from RM2.2 billion (USD730 million) to RM4.46 billion (USD1.49 billion).

## Viability of Project

- Project supposed to be commercially viable end up with government bill out of RM4.38 billion (USD1.46 billion) soft loan.

## Non compliance with Government regulation and procedures

- Unique case of a same company selling the land, developed the project and arranging the financing.

# IMPACT

## Negligent

- Case of gross negligence by Government Officials, Ministry and Statutory Bodies level.

## Weak Corporate Governance

- Development proposals were not tabled to the Cabinet for approval prior to the execution of the project.
- PKA/Ministry of Transport failed to alert the Cabinet in a timely manner about PKA's inability to pay for the project out of its own funds.

## Weak Project Management

- Contract were entered into on the basis of estimated amount and without detailed buildings plans.
- The development contracts totaling RM1.85 billion (USD617 million) were all awarded to one company ( KDSB) without competitive bids.

# 1. PURCHASE OF LAND

**On 6 November 2002, the Government agreed to purchase the land with the following conditions:**

**a) Based on willing buyer and willing seller.**

**b) The price of the land is RM25 psq feet based on the special value and discounted cash flow inclusive 6% interest rate.**

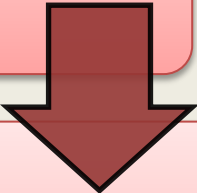
**c) The repayment period will be deferred for 15 years.**

**d) The purchased of the land using internal sources of PKA and the returns on the project.**

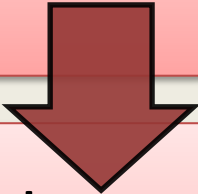
**e) The land should be free from any encumbrances**

# 1. PURCHASE OF LAND (cont..)

On the same day (6 Nov 2002), PKA sent an offer letter to KDSB (company) to purchase the land at **RM25 psf** at a cost of **RM1.088 billion (USD360 million)**.

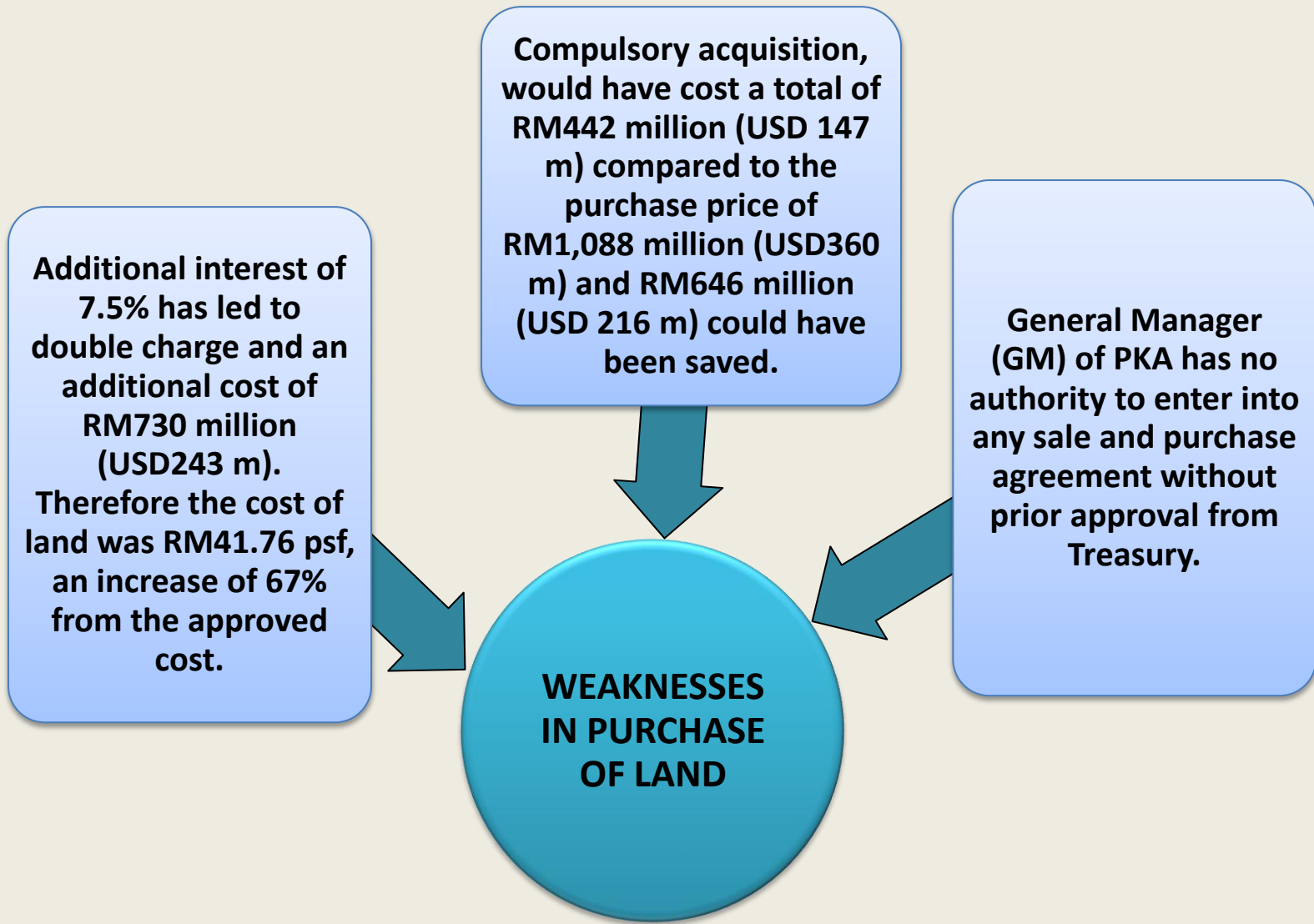


On 12 November 2002, the Sale and Purchase agreement was signed with KDSB, an interest of **7.5% was included** and the total cost of the land was **RM1.81 billion (USD603 million)**.



PKA has committed to engage KDSB as developer for first 500 acres for RM350 million – RM400 million under a separate agreement.





## 2. DEVELOPMENT OF PKFZ PROJECT

<b>Date of application from Minister of Transport to Prime Minister/Minister of Finance</b>	<b>Date of approval from Prime Minister/Minister of Finance</b>	<b>Amount of Contract approved  (RM million)</b>	<b>Date of Agreement signed by General Manager of PKA</b>
<b>24 Feb 2004</b>	<b>25 Feb 2004</b>	<b>RM1,000</b>	<b>27 Mac 2004</b>
<b>11 Oct 2005</b>	<b>20 Oct 2005</b>	<b>RM510.38</b>	<b>30 Nov 2005</b>
<b>28 Mar 2006</b>	<b>29 Mar 2006</b>	<b>RM335.81</b>	<b>29 Apr 2006</b>
	<b>Jumlah</b>	<b>RM1,846.19</b>	



**All contracts were entered into on a basis of estimated amounts and without detailed buildings plans. PKA did not have the benefit of a fixed sum contract or detailed specifications of what the turnkey development would entail.**

**The development contracts totaling RM1. 846 billion (USD 615 million) were all awarded to KDSB without competitive bids.**


### **WEAK PROJECT MANAGEMENT**

**The entire project was completed in 2 years, contrary to the JAFZI Masterplan which recommended a mixed development strategy.**


**The Quantity Surveyor (QS) consortium was only appointed 9 months after construction works commenced. PKA did not have the benefit of the advice of its own QS from the beginning of construction works.**

# 3. FINANCING OF PKFZ PROJECT

According to the agreement, KDSB will advance the project development cost and PKA will repay through deferred payment in accordance with the agreed schedule.



KDSB arranged for issues of Public Debt Securities (PDS) amounting to RM3.68 billion to finance the development cost of the project.



Four letters of support were issued by 2 Minister of Transport to ensure that the Malaysian Rating Corporation Berhad (MARC) gave “AAA” rating to the issuing of bonds.



# **WEAKNESSES ON FINANCING THE PROJECT**

**The Government has to bear liability of RM4.63 billion since all of the support letters issued would be construed as guarantee by the Government. This liability will increase to RM12.5 billion if default in payment.**

**Weak corporate Governance especially in issuing Letter of Undertaking by GM of PKA without approval from Treasury.**

**The GM of PKA has committed misrepresentation by issuing the Letter of Undertaking without prior approval from Ministry of Transport and Ministry of Finance.**

# 'PKFZ bond issue a factor in cost increase'

**IPOH:** Auditor-General Tan Sri Ambrin Buang said simultaneous development of the Port Klang Free Zone (PKFZ) and bond issuance to finance the project were among the reasons why its cost had ballooned from RM2.5 billion to RM4.6 billion.

He said the National Audit Department had made several observations with regard to the PKFZ development several years ago but it was not given due attention by the Port Klang Port Authority (PKA).

"We observed that to set up the PKFZ, it needed a huge investment or expenditure.

"The issue here is whether PKA had the capacity to implement it.

"So this matter should have

been discussed with federal agencies like the Finance Ministry and Economic Planning Unit," he told reporters at the handover ceremony of the NAD Perak branch building in Meru Raya here yesterday.

He said PKA, as a statutory body, should not evade complying with all regulations and procedures set out by the government in developing PKFZ.

"We need to know our responsibility, our powers have limits and when we make a commitment, we must be aware of the risks if it involves a big amount of public money," he said when asked what was the lesson that could be learnt from the PKFZ controversy.

PKFZ is a transshipment

hub built on a 405-hectare site in Pulau Indah, Port Klang, housing among others, warehouses, building blocks and a four-star hotel.

PKA had bought the land from Kuala Dimensi Sdn Bhd at RM25 per sq ft and later appointed the company to develop it.

The issue received public attention since PKA had obtained a soft loan of RM4.632 billion from the Finance Ministry for the project.

Transport Minister Datuk Seri Ong Tee Keat had told the Dewan Rakyat in June that the whole cost of PKFZ project could reach RM12.453 billion by 2051 if no intervention and efforts were made to promote it. — Bernama



**Matter should have been discussed with federal agencies, says Auditor-General Tan Sri Ambrin Buang**



**The Letters of Support and Letter of Undertaking issued were against Section 14(1) of the Financial Procedure Act, 1957.**

**The GM of PKA has signed Development Agreement amounting to RM2.24 billion (USD750 million) without approval from the Board of directors and Minister which was against the Contract Act.**

**WEAK  
CORPORATE  
GOVERNANCE**

**Appointment of key project contractor and consultants were made by PKA management without prior approval from the Board and Ministry of Finance.**

**No approval from the Ministry of Finance and Ministry of Transport on the establishment of PKFZ Sdn. Bhd.**

**All of the agreements signed were not approved by the Board of Directors.**

**Variation Orders totaling RM62.5 million have been accepted by PKA management without reference to the Board and Ministry of Finance.**

**WEAK  
CORPORATE  
GOVERNANCE**

**The agreements were not vetted by the Attorney General despite the significant amounts involved and PKA's lack of experience in projects of this nature.**

**Contracts were entered based on estimated costs without detailed drawings.**



**The Quantity Surveyor (QS) appointed by PKA in this project was also the QS for KDSB on infrastructure works.**

**All payments made were certified by KDSB architect without further verification by PKA.**

**WEAK  
CORPORATE  
GOVERNANCE**

**Additional claims by KDSB on middle class hotel which should be RM43.5 million but claim as RM69.6 million.**

**All the requirements of Treasury Instruction was ignored by PKA.**

**Role and Responsibilities of Management and Board Members of Statutory Bodies must be clearly understood as spelt out in the Treasury Circular**

**Government Representatives on Board of Statutory Bodies must know their **Fudiciary Duties****

## **LESSONS LEARNED**

**Board of Directors became spectator and the whole process of the project was handle by personality having good connection with the Minister**

**Steering Committee to monitor the project comprising of representative from the Treasury, Attorney General, Ministry of Transport and other governing agencies was not established**



**Internal Audit was ineffective and failed to play their role and responsibilities**

**Weak Corporate Governance and no of check and balance**

## **LESSONS LEARNED**

**Ministry in charged of Statutory Bodies must read the **Audit Observations** and take the necessary actions immediately.**

**Must at all time **get clearance** from Treasury on matters involving finance and Attorney General on contractual matters.**

**THANK YOU**