SUMMARY

Latent defects are defects which cannot reasonably be discovered at the stage of a building's practical completion or during the period of contractual liability for defects. Such defects are a fact of life and fault free buildings cannot be guaranteed; though competence, good management and care in execution can reduce the incidence of latent defects and the severity of any damage. Latent defects in this study are confined only to those defects attributable to poor workmanship by contractors and excludes design faults.

In Singapore’s context, common latent defects are water seepage, tiling problems and spalling concrete which usually surface between 3 to 5 years post completion; long after the expiry of the period of contractors’ liability for defects. Currently in local construction contracts, expressed contractual liability for such defects is confined within a usual one-year defects liability period - an arrangement which also ties in with lease agreements with home owners.

The current arrangement for handling latent defects relies heavily on litigation. However, the law relating to litigation is obscure - the possibilities of full or even partial redress depend on a complex interaction between the law of contract and the law of tort. In the light of complicated legal intricacies, other communities particularly in the West, have reviewed their arrangement and formulated systems to handle latent defects other than litigation. Arrangements range from modified legislation to improved legal certainty and financial systems to guarantee rectification costs through sinking funds or insurance which spread risks of rectification costs.
In formulating alternative arrangements, developers' objectives primarily in prompt rectification of defects and protection in the form of financial recourse must be met. Such objectives can be met by insurance arrangement against latent defects - a new flavour of the West. The insurance option requires supporting sub-systems like performance standards, accreditation of contractors and building inspectorates.

Insurance option is a viable concept to meet developers' objectives as protection against post contract latent defects. In Singapore's context where sub-systems need to be developed and evolved to support the insurance option, it may be prudent to embark on a simplified system like the National House Building Council (NHBC)'s Buildmark. The performance standards, accreditation of contractors and building inspectorate roles as a start, can be undertaken by a major government agency like the Construction Industry Development Board (CIDB) which is already currently performing the role of accreditation of contractors and assessing performance of contractors; although the latter role is not as building inspectorate. In Singapore, performance standards and similar building inspectorate roles (through accredited checkers) are stringently controlled by the Building Control Division (BCD). As a supporting system to insurance options, the roles of CIDB and BCD can be merged. Apart from the reactive provision of financial recourse and protection under insurance options, reactive measures to control occurrence of common defects like good detailing and construction methods must be implemented concurrently to reduce incidence of occurrences and to confine risk exposures of latent defects.
The market should be led and directed by a major developer who is required to set the pace. This role of pace-maker and setter can be undertaken by the Housing & Development Board (HDB) which is the largest developer in Singapore and whose work constitutes more than half of the industry’s workload.

This bulk procurement strength can provide the necessary impetus to mould the industry into innovations for the private industry to follow whereby eventually creating market demand.