SUMMARY

The subject of professional negligence and liability has been through many years of development and is still receiving the close attention of academics and practitioners. However, little has been researched on the local industry from the developers' standpoint. It is for the reason that the study is conducted, hopefully as the basis for more future study in this subject.

It is clear that it is for developers to prove the existence of the three basic ingredients to professional negligence before any such claim is valid. The proving process, however, can be difficult, as illustrated in two case studies, namely a Singapore Court of Appeal case and a case encountered by the writer in his working life.

A survey was conducted to understand the developers' experience and views on the subject matter. In the survey, instances which respondents commonly regarded as professional negligence were found to be related to the basic functions of consultants such as plan and document preparation, designing and compliance with governmental regulations.

The survey also confirmed the writer's belief that litigation is not a popular course of action among developers in dealing with professional negligence. Instead, more amicable and private means of dispute resolution such as negotiation are preferred.
In formulating measures to protect themselves against consultants’ negligence, they tend to adopt basic measures such as careful consultants’ selection and close project monitoring. While respondents are prepared to change some existing practices to help to minimise consultants’ negligence, they will only do so provided that there is no resultant cost increase.

Developers should take a total approach towards consultants’ negligence. While consultants may be appointed by them after careful consideration, developers should still recognise and be prepared for the possibility of professional negligence upfront. Not necessarily must the preparation be put to some form of legal action but it would help to protect the developers’ position.

The industry’s position with regards to professional negligence may be improved if the parties, namely developers, consultants and contractors are prepared to work in the same direction while pursuing their respective goals.