



Who's guilty on the harbour?

Hongkongers concerned about heritage and the environment should spare a thought for Ho Loy, who led the protest against the demolition of the Star Ferry clock tower in December. She has been charged with two criminal offences: damaging the canvas covering the scaffolding at the fenced-off pier, and possessing an offensive weapon – a paper cutter – that she used to cut the canvas to gain entry to the clock tower. She pleaded not guilty and her case will be heard in May.

The facts behind this unfortunate episode shows that the government is by no means blameless.

The demolition of the Star Ferry and Queen's piers was planned as part of phase three of the Central reclamation. Although the Protection of the Harbour Ordinance was enacted in 1997, the government gazetted a plan in 1998 to reclaim 38 hectares of the harbour at Central. The Legislative Council condemned the plan, 45 votes to zero, which halted it.

Those 38 hectares formed only a minor part of the 584 hectares of harbour reclamation that the government had gazetted despite the ordinance.

In 2002, the government reduced the scale of reclamation to 23 hectares and submitted the new phase-three plan for public consultation and for approval by the Town Planning Board. But the government justified the plan with an incorrect interpretation of the harbour ordinance: showing some public benefit, it said, was enough to prove compliance with the law. That misled the board and the public.

The government's interpretation was successfully challenged in the law courts by the Society for Protection of the Harbour. The court ruled that "public benefit" was not enough, and that an "overriding public need" for the reclamation must be established.

Knowing only too well about the pending legal challenge, but before the courts could pronounce judgment, the government hastily signed the phase three contract with the current

"The government owes the community an explanation for its culpable behaviour on harbour reclamation"

contractor. The government's action was challenged in legal proceedings by another contractor who had also tendered for the contract.

The government lost, and was criticised by the arbitration panel for having entered into a contract with "undue haste". The government has not published the amount of damages it had to pay, but it must be in the millions.

In subsequent legal proceedings begun by the Society for Protection of the Harbour, the court was confronted with a fait accompli.

The government argued successfully that, because the contract had already been awarded, stopping the reclamation would be very costly. So the court refused to order the work halted.

The conclusion is clear. The third phase of the Central reclamation was never properly considered by the Town Planning Board, nor was the public ever properly consulted.

The government owes the community an explanation for its culpable and extraordinary behaviour in failing to comply with proper procedure.

It has led to the loss of a major piece of Hong Kong's historic heritage, the Central harbour, and millions of dollars in damages being paid out of the public purse.

Had the government followed proper procedure, phase three might never have been approved by the public or the planning board, and Ho's protest might not have been necessary.

It is amazing that the government disregarded a planning board directive that the reclamation plan be reviewed – and a legislators' motion urging the government "to immediately suspend the demolition works of the Star Ferry pier and expeditiously convene an experts' meeting, so as to examine the various preservation options".

By its high-handed and hasty demolition of the Star Ferry pier, the government again presented the community with a fait accompli.

The clock tower is gone. And Chief Executive Donald Tsang Yam-kuen expresses regret – but did not salvage matters when he could have.

Christine Loh Kung-wai is chief executive of the think-tank Civic Exchange. cloh@civic-exchange.org