

**TRANSFORMATION OF DELIVERING SYSTEM:
COMPARISON STUDY BETWEEN CERTIFICATE OF FITNESS FOR
OCCUPATION (CFO) AND CERTIFICATE OF COMPLETION AND
COMPLIANCE (CCC)**

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UNIVERSITI TEKNOLOGI MALAYSIA

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COMPLIANCE (CCC)**

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DEDICATION

To my beloved parent and families,
Fiancé, bestfriends, and friends,
Architects and Construction team

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In the name of Allah, the Most Gracious and the Most Merciful

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ABSTRACT

Delivering system in construction industry in Malaysia has been transformed from a Local Authority certification based (Certificate of Fitness for Occupation; CFO) to self-certification by a qualified person (Certificate of Completion and Compliance; CCC) starting from April 2007. The purpose of this study is to identify differences between CFO and CCC delivering system in terms of procedures such as the process, and technical requirements, and also in terms of professional liabilities such as duty of care, biasness, and delay. Will the CCC be merely an *ad hoc* and simplistic solution to improve and speed up the delivering system? The findings of the study show the most preferable delivering system. The study has been done based on primary and secondary data. Data collections have been analyzed using qualitative and quantitative method. Ten (10) respondents participated in the survey and twenty (20) construction projects were chosen for case studies in this research. In the end, the following results were sought. Of the ten (10) respondents, nine (9) of respondents prefer CCC delivering system because the principles of CCC system improve the weakness of CFO system. Most of respondents state that CFO limits the professional liabilities while CCC extends the liabilities. As a conclusion, all related parties in construction project especially PSP must clearly understand with the procedures of delivering system and know their roles and liabilities to improve the system better.

Keywords : *Certificate of Fitness for Occupation (CFO), Certificate of Completion and Compliance (CCC), Procedures, Liabilities*

ABSTRAK

Sistem penyampaian dalam industri pembinaan di Malaysia telah berubah dari sijil perakuan oleh Pihak Berkuasa Tempatan (PBT) iaitu Sijil Kelayakan Menduduki (CFO) kepada pensijilan sendiri oleh orang yang berkelayakan (PSP) iaitu Perakuan Siap dan Pematuhan (CCC) bermula April 2007. Matlamat kajian ini adalah untuk mengenalpasti perbezaan antara sistem CFO dan sistem CCC dari aspek prosedur seperti proses, dan keperluan teknikal, dan juga aspek liabiliti profesional yang meliputi tanggungjawab, kelewatan dan isu berat sebelah. Adakah CCC boleh menjadi penyelesaian yang mudah untuk menambahbaik dan mempercepatkan kaedah penyampaian ini. Hasil kajian ini akan menunjukkan sistem manakah yang lebih menjadi pilihan di kalangan pihak yang terlibat. Kajian perbandingan ini dibuat berdasarkan data primer dan data sekunder. Kutipan data akan dianalisis menggunakan kaedah kualitatif dan kuantitatif. Sepuluh (10) responden terlibat dalam soal selidik dan dua puluh (20) projek pembinaan dipilih sebagai kajian kes untuk kajian ini. Di akhir kajian, keputusan yang diperolehi adalah seperti berikut. Sembilan (9) responden memilih sistem CCC kerana prinsip dalam sistem CCC memperbaiki kelemahan dari sistem CFO. Responden juga berpendapat CFO menghadkan liabiliti professional manakala CCC meluaskan lagi liabiliti professional mereka. Kesimpulannya, semua pihak yang terlibat dalam projek pembinaan terutama PSP perlulah memahami prosedur sistem dan tahu tanggungjawab mereka supaya sistem ini dapat menjadi lebih baik dan berkesan.

Kata kunci : Sijil Kelayakan Menduduki (CFO), Perakuan Siap dan Pematuhan (CCC), Prosedur, Liabiliti

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LIST OF ABBREVIATION

	MEANING
BP	Building Plan
CCC	Certificate of Completion and Compliance
CFO	Certificate of Fitness for Occupation
CIDB	Construction Industrial Development Board
IEM	Institution of Engineer Malaysia
IWK	Indah Water Konsortium
JBPM	<i>Jabatan Bomba dan Penyelamat Malaysia</i>
JPS	<i>Jabatan Pengairan dan Saliran</i>
LA	Local Authority
LAM	<i>Lembaga Arkitek Malaysia</i>
OSC	One Stop Centre
PSP	Principal Submitting Person
SP	Submitting Person
TCF	Temporary Certificate of Fitness for Occupation
TNB	<i>Tenaga Nasional Berhad</i>
UBBL	Uniform Building by Law
VP	Vacant Possession

CHAPTER 1

INTRODUCTION

1.1 Introduction

According to the legal dictionary, Certificate of Occupancy is a document issued by a Local Authority (LA) to the owner of premises attesting that the premises have been built and maintained according to the provisions of building regulations. It is an evidence that the building complies substantially with the plans and specifications that have been submitted to, and approved by, the local authority. It complements a building permit – a document that must be filed by the applicant with the local authority before construction to indicate that the proposed construction will adhere to zoning laws.¹ The procedure and requirements for the certificate vary widely from jurisdiction to jurisdiction and on the type of structure.

Uniform Building By-Laws (UBBL) 1984 states that final certificate issued under by-law 25 for Certificate of Fitness for Occupation (CFO), CFO shall be given when a qualified person during the course of work have certified in Form E (Second Schedule) that they have supervised the erection of building and accept full

¹ Legal Dictionary, <http://legal-dictionary.thefreedictionary.com>

responsibility for those portions which they are respectively concerned with and local authority authorized by it in writing for the purpose that the building has been inspected. By-law 25A for Certificate of Completion and Compliance (CCC) stated that a qualified person has supervised the erection and completion of the building in the conditions imposed by local authority also have been satisfied and he/she accepts full responsibility for the portions that he/she is concerned with. The Qualified person shall forward copy of certificate of completion and compliance in Form F (Second Schedule) to authority and Lembaga Arkitek Malaysia.

1.2 Background of The Thesis

On 13th April 2007, the issuance of the Certificate of Completion and Compliance (CCC) by professionals with the objectives to improve the development processes was launched by The Hon. Malaysia 5th Prime Minister, Datuk Seri Abdullah Ahmad Badawi.² The CCC replaces the Certificate of Fitness for Occupation (CFO) previously issued by the local authority (LA) under the Uniform By-Laws of the Street, Drainage and Building Act 1974 (Act 133). The CCC is issued by the project's Principal Submitting Person (PSP) who is a Professional Architect, Professional Engineer or a Registered Building Draughtsman (allowed by the Architects Act) from the 12th April 2007. CCC is meant to replace the CFO. With reference to the statement above, this study is all about the roles transformation in the context of the changes of procedures and liabilities of the parties involved for the issuance of CFO to CCC.

This thesis will explain in detail about CFO, CCC and its related issues in construction. With the aim of removing the perennial complaints of the delays in the Certificate of Fitness for Occupation (CFO), government makes a radical change in

² Pertubuhan Arkitek Malaysia (PAM) homepage, <http://www.pam.org.my>

the building industry. The CFO is now abolished and replaced by the Certificate of Completion and Compliance (CCC). Local Authority certification is now replaced by self-certification by Principal Submitting Person (PSP) like Professional Architect, Professional Engineer or Registered Building Draughtsman supported by another 21 certificates from other building participants under a matrix of responsibility. The Street and Drainage Act has been amended as of April 2007 to impose increased fines (up to RM250,000) and jail sentences (up to 10 years) for offences arising contravention of the Act in issuing or failing to issue the CCC.³

Some building professionals have welcomed this change and have been actively promoting it. Others have voiced reservations as regards to its wide-ranging implications in the building industry. It is not clear whether further entrenchment of the local authorities' non-liability will improve the building industry delivery system. Similarly, it is not clear whether this shifting of responsibilities between LA to building professionals will the rising plethora of claims and complaints.

The study will examine the principal legal implications arising from the implementation of the CCC including possible areas of contention. It will also attempt to offer possible solutions, which various players in the building industry may adopt to ensure that their positions are protected. The issue is to improve the building industry delivery system and ameliorate probable liabilities and avoid incarceration.

1.3 Problem Statement

Final Certificates of completion and compliance with building standard and regulations for building which is subject as a Building Warrant should only occupy if

³ Act 133, Street and Drainage Act 1974

the building has been granted a Temporary Occupation Certificate or a Completion Certificate by LA. There are standard forms prescribed by Act of Parliament that certify that the project has been completed in accordance with Building Standard Regulations. Only LA will issue them, not architects or contractors. Traditionally architects and contractors make an application and LA will inspect and issue “Certificate of Completion”. However, starting 2007 there are new arrangements under Building Act will apply, making it necessary for the developer or owner as appropriate, to certify that the building complies with the regulations. The certifier may enclose with their certificate, certificates from approved certifiers of construction that shall be conclusive as to what they are certifying.

The government sees it fit for professionals to undertake the CCC system because there is a check-and-balance being introduced in the system in the form of “Matrix of Responsibility”. A total of 21 Certification Forms will be endorsed along the entire constructional process. These forms are gazetted as Schedules (Form G1 – G21) under the revised Uniform Building By-Laws, 1984 – Amendment 2007. Matrix of Responsibility is lays out the major activities in the project and precisely details the responsibilities of each stakeholder involved in a project. It is an important project communication tool because all stakeholders can see clearly who to contact for each responsibility.

The relevant sub-contractors and/or licensed trade contractors and the PSP shall certify each of the 21 Form Gs that each stage of the works has been completed in accordance with the Approved Building Plans. Thus, the Matrix of Responsibility with the implementation of the 21 Forms Gs will make everyone accountable for their respective scope of work. Nonetheless, the Local Authorities are empowered to stop the issuance of the CCC in the event of non-compliance with the conditions of the building plans approval and/or the relevant Acts.

Regarding to the transformation system from CFO to CCC, there are some issues arose in issuing final certificate and become the reasons for these changes. One

of the main issues is about the weakness of CFO system where it takes long time for inspections especially on the hidden part like structural elements, electrical conducting, materials used and others because they do not know about the constructions progress and quality for the materials because local authorities' representatives come during the completion of works for site inspections.

Another problem that has been identified in CFO system is late issuing of Vacant Possession (VP) that make the owner cannot move in quickly.⁴ In CCC system, VP can be issued together with final certificate so owner can use the building as soon as the building was certified by professionals. For developers, issuing VP is very important to them to avoid loss especially when they build houses. So, buyers can move in to the houses earlier if the VP was issued earlier.

Transformation of final certificate issuance from CFO to CCC also transferred the responsibility from Local Authority to Professionals. Under former system, CFO, Local Authority will issuing building certificate but under CCC, Professionals are responsible in issuing the building certificate. The CCC system replaces the weakness of CFO system. Other issue is Professionals' role in achieving CCC and his liability afterwards where Professionals need to get approvals and recommendation from all the relevant technical agencies (L.A, Fire Department, TNB, etc). A complete project under CCC is no longer under the liability of L.A but Professional is fully responsible for it (issuance of CCC from the professionals)

According to Street, Drainage and Building (Amendment) Act 2007, this is an act to amend the Street, Drainage and Building Act 1974. No certificate of completion and compliance shall be issued except by a Principal Submitting Person in accordance with the time, manner and procedure for the issuance thereof as prescribed by this Act or any by-laws made thereunder. Before the issuance of a certificate of completion

⁴ Pertubuhan Akitek Malaysia (PAM) homepage, <http://www.pam.org.my>

and compliance, it shall be the duties and responsibilities of the Principal Submitting Person to:

- (a) Supervise the erection of the building to ensure that the erection is in conformity with the approved plans and the requirements of the provisions of this Act or any by-laws made thereunder;
- (b) ensure that the building has been duly constructed and completed in conformity with the approved plans and the requirements of this Act or any by-laws made thereunder and that all technical conditions imposed by the local authority has been duly complied with;
- (c) ensure that the building is safe and fit for occupation

Street, Drainage and Building Act 1974 has been amended to fit with CCC system. However, there still have problems and conflict arise in new format of CCC like conflict of procedure in issuance CCC at different Local Authority and offences if the Professional have negligence and unfair when issue a certificate. These issues have been discussed in these research based on project cases analysis.

Questions arise:

- 1) Will the CCC via the self-certification doctrine be merely an *ad hoc* and simplistic solution to speed up the delivery system?
- 2) How independent are the PSPs entrusted in the issuance the CCC? Will the CCC self-certified by PSPs who are not independent reflect the true state of completion, compliance, quality of building works and value for money of the finished products?
- 3) Is the move to replace the CFO with the CCC to a complete substitute for LA control? Who then will be responsible for taking any enforcement actions?

1.4 Objectives of The Thesis

The objective of the thesis is to do a comparison study of delivering system between CFO and CCC in two major aspect; procedure and professional liabilities.

1.5 Scopes of The Thesis

The main thrust of this dissertation is on determining the issues arise in two different delivering systems CFO and CCC. The scope of this study will be confined to the comparison study of issuing final certificate between CFO and CCC including;

- i) Procedures of CFO and CCC delivering system
- ii) Liabilities of Local Authority and Professionals in final certificate issuance under CFO system and CCC system

1.6 Significant of The Thesis

This research is very important in order to give a guideline for the professionals in order to manage project successfully. This is because they are the people who coordinate a project. Principal Submitting Person must know and possess the required expertise on the process and technical matters of the project from beginning until the end of the project.

This research also gives some information about professionals' roles and liabilities. Responsibility for professionals in each project they involved are very complicated and from the preliminary stage until issuance of final certificate CFO or CCC where they need to get approvals and recommendation from all the relevant technical agencies.

As a comparison study, the findings show the differences between CFO and CCC in two major aspects; procedures and liabilities. The persons who are involved in building project under CFO or CCC system are clear with the procedures and liabilities for the portions which they are respectively concerned.

1.7 Methodology of The Thesis

In pursuance of the aim or objective as stipulated above, the primarily methods that have used to complete this project are research by literature review. Sources for literature review are from books, journals, newspaper article, notes and magazines. These sources provide a lot of data that can help to determine the background of the research, about the CFO system and CCC system.

Chapter 1 of this research is an introduction stage with the overall overview of CFO and CCC While in Chapter 2, this research will elaborate an extensive Literature Review on background of CFO and CCC, its significance, person involved and roles of relevant technical departments. In Chapter 3, procedures of CFO and CCC and professional liabilities will be discussed throughly. Procedure of CFO and CCC includes process, timeline, requirements and documentation. Liabilities under CFO and CCC includes roles and liabilities, negligent, duty of care, civil action, delay and death of PSP.

After data collection stage, the following stage is the data analysis stage and will be elaborated in Chapter 4. In this, analysis has been founded focus on the feedback from respondents regarding liabilities and procedures of CFO and CCC. Methods of this study include questionnaire and interviews with several Professionals and Local Authority officers. All questions are related to procedure and liabilities under CFO and CCC. Case study for this research is project that has been in-charged by respondent. Finally as in Chapter 5, present the conclusion of research and recommendation.

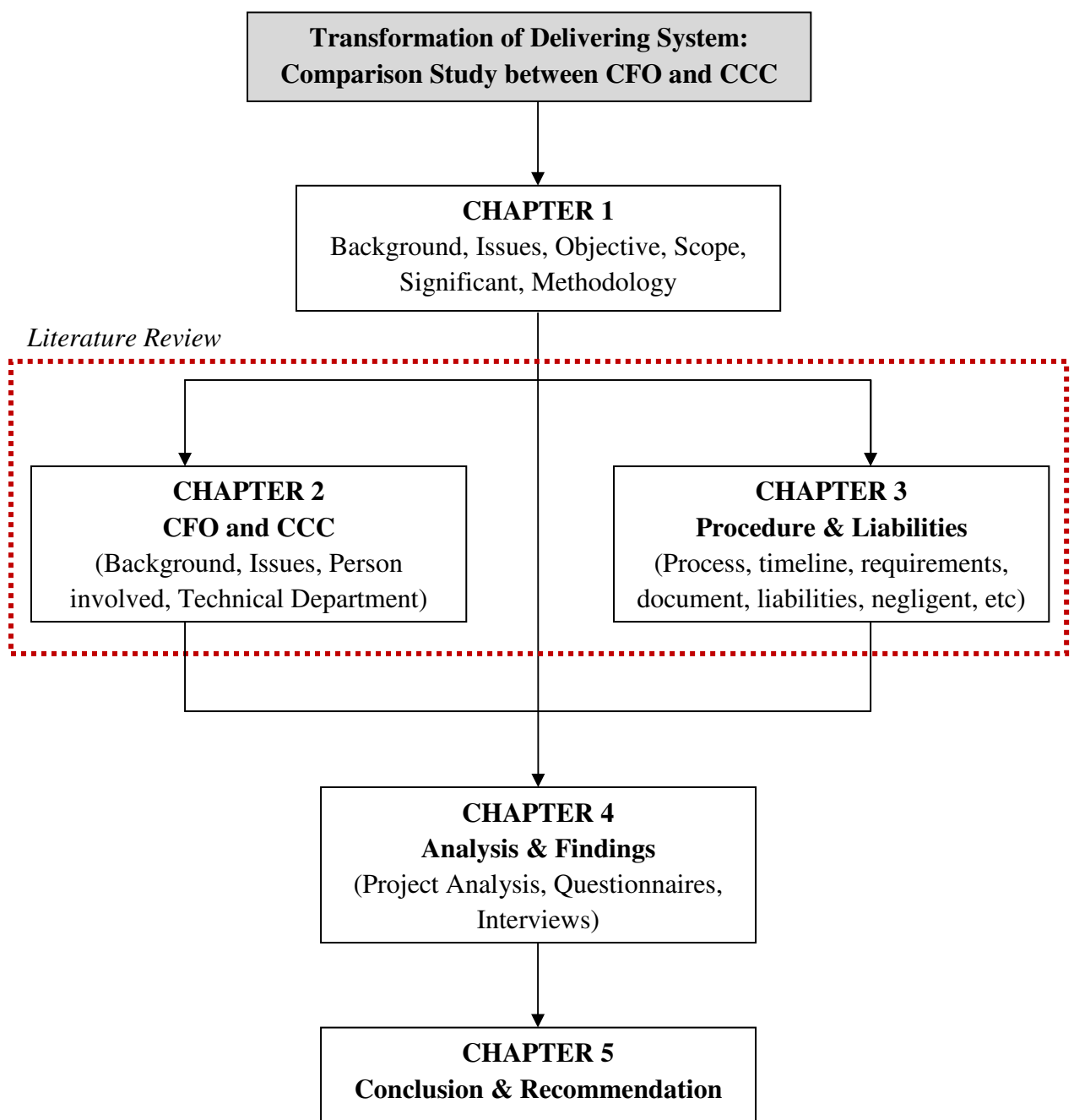


Figure 1.1: Methodology of Thesis

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