

Pua: PKA committing CBT by paying for incomplete work
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By Shannon Teoh

KUALA LUMPUR, April 18 —The Port Klang Authority (PKA) is committing criminal breach of trust (CBT) by paying holders of bonds issued by Kuala Dimensi Sdn Bhd (KDSB) for the controversial Port Klang Free Zone (PKFZ) project when the turnkey developer has not completed its work, the DAP claimed today.

In a statement yesterday, the regulator for Malaysia's largest port said it paid the bondholders to avoid further implicating the PKA for breach of contract in light of the ongoing litigation involving the multibillion project.

DAP publicity chief Tony Pua questioned the PKA's statement given that "there is no contract term which requires payment by PKA to KDSB or its bondholders if the necessary construction works are not completed.

"It makes absolutely no sense for the government to insist on making the payment when it disagrees that work has been carried out.

"In fact, a criminal breach of trust offence [would be] committed if PKA continues to make the relevant payments despite discovering that the works have not been executed or the claims were fraudulent," the Petaling Jaya Utara MP said in a statement.

Former transport minister Datuk Seri Ong Tee Keat revealed that the government has paid out RM3.039 billion to KDSB bondholders so far despite a legal dispute over PKFZ works.

Ong, who was removed from the Cabinet after being ousted as MCA president in 2010, had said the government should not pay the scheduled amounts, of which another RM733.37 million is due in June, until the cases have been settled.

Pua alleged that under the bond agreement, KDSB was to cover any shortfall in payment from the government due to incomplete works and gives bondholders the power to sue the company in such an event.

"These actions will obviously mean substantial losses by KDSB, a company owned by Barisan Nasional (BN) Backbencher's chairman, Datuk Seri Tiong King Sing.

"The only possible reason for the PKA and the minister of Transport, Datuk Seri Kong Cho Ha, to insist on making the payment is to protect KDSB," Pua said.

The opposition lawmaker pointed out that PKA's claim contradicts the advice from its legal counsel during the tenure of its former chairman, Datuk Lee Hwa Beng, who had specifically urged that payment be withheld so they could recoup all their losses in the event fraud is proven.

The project, initially tagged at an estimated RM1.1 billion in 1997 when it was mooted by then transport minister Tun Dr Ling Liong Sik, more than quadrupled to RM4.6 billion by

2007.

A position review by top accounting firm Pricewaterhouse Coopers (PwC) revealed in 2009 that the total cost including interest from debt repayments could reach RM12.5 billion.

Since December 2009, six individuals have been charged in court, including ex-MCA president Dr Ling and his successor as transport minister, former MCA deputy chief Tan Sri Chan Kong Choy, who are both accused of lying to the Cabinet.

Lee, who was PKA chief from March 2008 to March 2011, told The Malaysian Insider in a recent interview that this was "just the tip of the iceberg."

He said more would be revealed through the "money trail" if a corruption charge was ever brought to court or if there was a change in government as a new transport minister and PKA chief would not be obstructed by vested interest.

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