

A local architect was paid hundreds of thousands of dollars for work he never completed on the Cleveland Metroparks **Zoo's** ambitious tropical RainForest project.

Architect Thomas T.K. Zung admitted he also paid for a weeklong trip to London for Lou E. Tsipis, then the executive director of the Metroparks, and for Tsipis' wife. They took the trip four months after Tsipis recommended that Zung's firm be hired to design the RainForest.

Questionable deals allegedly made by Zung and Tsipis, a lack of expertise on the part of Zung and park officials in designing and building a simulated rain forest and a park board that didn't properly monitor the project are keys to the RainForest's problems.

The project, a re-creation of a tropical rain forest, has skyrocketed in price from an original estimate of \$4 million to an estimated \$27 million.

Among numerous problems, the largest and most expensive project in Metroparks' history is being built on a site susceptible to flooding, according to the U.S. Army Corps of Engineers.

Much of the work already completed will have to be ripped out and redone. Park commissioners are considering increasing fees to the public and have delayed other projects to make up for the soaring costs.

The opening date for the project, which park employees have dubbed the "DrainForest," has been pushed back from 1988 to fall 1992.

Zung told The Plain Dealer that Tsipis assured him he could ignore two of three phases outlined in Zung's initial 1986 contract to design the RainForest building and its exhibits and still be paid the entire contract amount of \$378,000.

Zung, who also had been hired in August 1985 to do a feasibility study for the project, acknowledged he was paid for work he never completed on the first contract. On the recommendation of Tsipis, Zung was given a second contract for \$238,000 on April 20, 1987, to do much of the same work, according to park board minutes and the contracts.

He said he told Tsipis he was not capable of designing the exhibits, one of the requirements in each of the first two contracts, but that Tsipis told him not to worry about it.

Last March 22, the park board hired the Larson Co. of Tucson, Ariz., for \$1 million to do much of the exhibit design work that Zung had agreed to do in his two contracts and to oversee an estimated \$10 million in construction. The board required Larson to hire Zung as its architectural consultant throughout the project.

In all, Zung has so far collected nearly \$800,000 for RainForest work, records show.

Cuyahoga County Prosecutor John T. Corrigan, questioned about the legality of the alleged arrangement between Zung and Tsipis, said he had not read the contracts but indicated such a deal could be a crime. Corrigan did not elaborate.

Zung, who is president of Buckminster Fuller, Sadao & Zung Architects, claimed there was nothing improper with the arrangements on the first and second contracts, saying it was simply the way Tsipis did business. He said he gave Tsipis nothing for the concessions.

However, The Plain Dealer, in a two-month investigation into the RainForest project, found that Zung paid for a trip to London that Tsipis and his wife, Marilyn, took four months after the park director recommended him for the initial \$378,000 contract.

Zung first admitted paying for the trip, but in a later interview said Tsipis had paid him back.

He said he didn't consider it improper to pay for Tsipis' September 1986 trip because he and Tsipis spent the week examining butterfly exhibits at the London **Zoo** and Syon Park, a private butterfly exhibit. He said he wanted to examine the exhibits because the RainForest also will have a butterfly exhibit.

He said taking Tsipis with him was the only way he could get cooperation from **zoo** officials in London.

"I already had my contract, so it wasn't improper. I didn't charge them, the **zoo**, for anything," Zung said.

Within an hour of first admitting that he paid for the trip to London for Tsipis and Tsipis' wife, Zung called The PD back and said to forget the earlier conversation. He said he had never paid for the couple's trip to London but, later in the interview, again acknowledged paying for the trip.

He added, however, that Tsipis loaned him money during a subsequent trip to China and told him to keep it in return for the London trip.

Zung said he couldn't remember when Tsipis repaid him - they took several trips to China together - and couldn't remember the amount.

"I don't even remember, but this was a private thing and personal between me and Lou, OK? I wouldn't lie to you," Zung said.

A public official or employee is prohibited from soliciting or accepting travel, meals and lodging expenses from a person who is seeking to do business or is doing business with the official's agency, according to John Rawski, a lawyer with the Ohio Ethics Commission. He said a violation is a first degree misdemeanor for the official and the vendor and, depending on the case, could also involve felony charges.

Rawski said that even if a public official paid the money back to the businessman, "it would not undo the fact a criminal act had taken place." That would be like stealing a car and returning it to its owner a few days later - the person would still face a charge of auto theft, he said.

Tsipis was forced to retire in April 1988 after PD disclosures of activities unrelated to the RainForest, including nepotism, favoritism and **zoo** concession contract irregularities.

In a telephone interview from his home in Hillsborough, N.C., Tsipis said he couldn't remember discussions with Zung about the first contract. He said he did not know why Zung received the second contract, though board minutes say he recommended that Zung receive it.

"That was four or five years ago, and I can't remember what I might have said or done then," said Tsipis, adding that the contracts were also approved by a park lawyer and the park board.

"I have nothing further to say," said Tsipis, when asked about the London trip.

To date, more than \$12 million has been spent on the RainForest. Most of the money for the project comes from taxpayers, who provide more than 78% of the park system's annual budget.

Because of the escalating costs, park officials admit some park system maintenance is not being done, dredging of Hinckley Lake has been delayed, the new clubhouse at Sleepy Hollow Golf Course will be smaller than planned and a private developer is being sought for the Emerald Necklace Marina instead of using the district's staff and money to improve it.

Officials also are considering raising the **zoo** admission price or charging a separate fee for the RainForest.

The RainForest's exterior, based on Zung's design, has been completed. But further construction has been on hold for about a year while the park board, Larson company officials and design, sound and lighting consultants determine how to undo much of the construction that was based on Zung's interior design and complete the design of the exhibits.

Among the problems: The building was designed with insufficient light for plants. Plants are an integral part of any rain forest. The two-story building was designed with no elevator for the disabled, other than a freight elevator in a storage area in a non-public section. Tsipis told Zung the disabled could use the freight elevator. The indoor exhibit was developed to attract more winter visitors to the **zoo**, but original plans included few bathrooms. The idea was to have visitors use outdoor restrooms to keep children from loitering in the building. Much of the 50,000 square feet of exhibit space has to be rebuilt. No plans for the exhibits, or even the number of exhibits, were developed until two years after construction began on the building.

In addition, the site of the RainForest is one of the lowest spots in the 100-year **flood** plain of **Big Creek**, which runs through the **zoo**. That means chances are 1 in 100 in any year that the spot would be under 7 to 10 feet of water, according to the Army Corps of Engineers and Metroparks officials.

More than 150 reptiles, including the **zoo's** entire snake collection, were killed in a **flood** at the **zoo** Jan. 22, 1959. The Army Corps of Engineers said that **flood** was not as severe as a 100-year **flood**. The building that housed the reptiles was at a higher elevation than the RainForest building.

Zung said he knew the project was in the **flood** zone, but that he never tried to determine how that might affect it because Tsipis and Metroparks official Joseph A. Pavilonis told him not to worry about flooding. They told him they had remedied the problem, Zung said.

Pavilonis denied this.

"If Zung said I said it was OK, that's not true," said Pavilonis, who retired last year as director of planning, engineering and natural resources. "I brought up the concern about the **flood** elevation. That **flood** thing was a decision made by Mr. Tsipis, I know, because I was concerned, I brought it up. I questioned what the architect was doing and was told he was following Tsipis' orders."

Tsipis said in a telephone interview that he had great concerns about the **flood** plain and had many discussions about it, but could not remember any details.

Zung said he had nothing in writing from park officials that said he shouldn't worry about the **flood** plain. He added that his firm put nothing in writing either because he and his associates did not "go about worrying about covering our ass."

He said he did not investigate the **flood** plain issue when he conducted a 1985 feasibility study on transforming a portion of a vacant warehouse east of the main entrance to the **zoo** into the

RainForest exhibit. In the \$28,500 study, Zung recommended the building be used, and it is now the site of the RainForest.

Zung said he never wrote a report on the feasibility of the project and instead provided the Metroparks with drawings of a rain forest building.

"What they were really concerned with is, could it (the building) take the weight?" Zung said. "We did the formal report through the sketches, nothing (was) written."

The sketches consisted of a series of color drawings of a building similar to the present RainForest shell.

Former park board members say they were unaware of many of the RainForest's problems.

Eleanore Kapel, a commissioner from 1978 until 1988, said the board gave Tsipis and former **Zoo** Director Michael Vitantonio "a lot of leeway. Maybe we gave them too much."

"Lou and Mike didn't always pay attention to the board," said Kapel. "Many times they did as they damn well pleased."

Kapel, who resigned in February 1988 after The PD revealed that five of her relatives had been hired for park jobs since her appointment, added that she signed Zung's second contract not knowing that he had not fulfilled the obligations in the first contract. She said she relied on the advice of the experts on the Metroparks staff.

Zung said, "We'd be up the **creek**," if the park board had known of his deal with Tsipis and had forced him to fulfill the original contract.

Zung said Tsipis told him he couldn't draw up separate contracts for each phase of the project, so he included them all in the original contract. He added that Tsipis told him to perform only the first of the three phases - designing the exterior - and that "when things work out we're going to give you (contract) two."

"I had to trust him (Tsipis). He was going to give me stage two and stage three, and he did. He honored his word," Zung said.

He said the deal made him nervous, partly because his firm did not have the expertise to design the exhibits. He added he tried to get Tsipis to amend the original contract before receiving his second contract in April 1987, but said Tsipis told him, "No, the board wants a new contract."

David J. Miano, a partner with Zung, said it was a stupid business decision for the firm to sign a

contract for work Zung knew the firm would not or could not perform. Zung should have insisted the requirement to perform stages two and three in the original contract be deleted, said Miano.

Zung said one of the main reasons for spiraling costs on the RainForest project was changes by park officials that increased the size of the building.

The application for a building permit that Zung filed nearly four years ago was for an 82,711-square-foot building, about 2,400 square feet smaller than what the building is now. That additional space, using Zung's figures, would have added only \$720,000 to the project's cost.

Zung complained that his firm lost \$335,000 on the RainForest because Tsipis "kept changing the program, particularly when (he) wanted the dome and atrium to be much bigger." He said that as the job progressed, his payment, as a percentage, shrank.

"They say I have to accept less, and that's tough," he said. "I'm getting screwed, and I resent it."

Architects normally get 6% to 10% of the total cost of a project. Zung's complaint was that his fees have not matched the dramatic rise in the RainForest's cost.

Fred R. Rzepka, a builder and developer who was appointed to the park board Jan. 1, 1987, has been leading the efforts to complete the RainForest and is one of its harshest critics.

"I cannot be the judge about who made all the mistakes, but this building was poorly planned from the beginning," he said.

"For instance, the warehouse should have been demolished and the RainForest started from scratch. It would have been less expensive to do it that way. Using the warehouse meant the size could not be controlled. Instead, it controlled us . . .

"An awful lot of mistakes were made in the design, in my opinion," Rzepka said. "Several dozen major changes had to be made in the original plans and hundreds of minor ones. Expert advice was needed before this building was started, but it wasn't obtained."

Asked why the board agreed to keep Zung on in the Larson contract, Rzepka said it was done for the sake of continuity.

Christopher Brabander, director of the district's Graphic Arts Division, said he was baffled that the exhibit areas in the RainForest were built "before there were any plans."

"A lot of this was done in ignorance, and of course a public agency should not work like that," Rzepka said. "I don't know how the early planners could have just ignored the artistic part of the

building," he said.

"However, I can tell you that I have not seen anything that was maliciously done. The work we are having done now is raising the cost because we don't want to do a schlock job. This is designer clothing, not just a pair of ordinary jeans."

CITATION (AGLC STYLE)

JOHN S. LONG S; PAULINE THOMA, 'Zoo work paid for, but not completed RainForest project stalls as costs skyrocket', *Plain Dealer, The* (online), 28 Jan 1990 <<https://infoweb-newsbank-com.ezproxy2.cpl.org/apps/news/document-view?p=AMNEWS&docref=news/173D9D44E716ED70>>

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