



Barbados Association of Professional Engineers
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Adjudication Rules

0.0 Preamble

1. There appears to be an increasing number of construction related disputes in the Caribbean.
2. Many disputes go unresolved due to the expense and the slow pace of arbitration and litigation.
3. The root cause of the costs and delays with arbitration and litigation procedures appears to be unfamiliarity with engineering related issues, which leads to a hesitancy in making uncertain decisions.
4. The Barbados Association of Professional Engineers (BAPE) is offering an adjudication service to the public in order to expedite the resolution of disputes.

1.0 Applying for the Service

1. One or both disputing parties may contact BAPE to have their dispute adjudicated by completing the **Adjudication Request Form** (Annex A). Either of the Disputing Parties may submit the Adjudication Request Form.
2. If BAPE agrees to adjudicate the dispute, then BAPE will contact both disputing parties and request that they complete the **Dispute Description Form** (Annex B) and pay the relevant fee. The fee should be shared equally between the disputing parties. A completed Dispute Description Form is provided as an example in Annex C.

2.0 Preliminary Determination

1. The Adjudicator may contact either side to request clarification or additional supporting information before determining the dispute.
2. A peer reviewed expert **Preliminary Determination** of the dispute, together with a detailed explanation of how it was reached, and a response to each argument raised by the disputing parties, should be issued to each disputing party within one month after the Dispute Description Form was submitted.

3. Each party will have 2 weeks to critically review the Preliminary Determination, and formally submit any supplementary supporting evidence.
4. If the Adjudicator believes that the supplementary information was sufficiently crucial to the determination, then the revised determination may also be issued as Preliminary for another review.

3.0 Final Determination

1. A **Final Determination** should be expected within 2 weeks after all of the supplementary supporting evidence has been submitted.
2. Both sides must accept the Final Determination during the contract period. Any party may challenge the adjudicator's decision, in an arbitration or litigation process, but only after the Contract period. It should be noted that the courts tend to accept the adjudicator's decision.

4.0 Cost of the Service

1. The cost of the service for each dispute is based on the number of pages of evidence to be reviewed and the complexity of the Contract. Therefore, the greater the number of pages of evidence to be reviewed, the higher the fee. A drawing sheet is counted as one page.
2. To determine contract complexity, contracts can be divided into the following types.
 - a) Minor Works (Contract Sum less than or equal to BD\$1M)
 - b) Major Works (Contract Sum over BD\$1M)
3. In determining the fee, publically available reference documents like national building codes, national legislation, national regulatory guidelines, and general conditions of formal contracts will not be counted. However, they may be submitted or referenced as supporting evidence.
4. The following costs should be divided equally between disputing parties.

Minor Works	Major Works
5 pages, 1 dispute = \$ 2,000	5 pages, 1 dispute = \$ 4,000
25 pages, 1 dispute = \$ 3,750	25 pages, 1 dispute = \$ 6,750
50 pages, 1 dispute = \$ 4,500	50 pages, 1 dispute = \$ 7,500
75 pages, 1 dispute = \$ 5,250	75 pages, 1 dispute = \$ 8,250
100 pages, 1 dispute = \$ 6,000	100 pages, 1 dispute = \$ 9,000

End.

Annex A

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ADJUDICATION REQUEST FORM

Disputing Party No. 1	Disputing Party No. 2
Name:	Name:
Role [Note 1]:	Role [Note 1]:
Address:	Address:
Tel/Cell:	Tel/Cell:
E-mail:	E-mail:
Type of Dispute [Tick all that apply]: <ol style="list-style-type: none">1. Construction work not completed.2. Construction work not completed properly.3. Contractor is owed money.4. Contractor was over paid.5. Other (please state):	
Notes: <ol style="list-style-type: none">1. Role can be: Homeowner, Contractor, Sub-contractor, Supplier, Financier, etc.2. Any of the Disputing Parties may submit an Adjudication Request Form.3. If BAPE agrees to adjudicate the dispute, then BAPE will contact all of the disputing parties and request that they complete the Dispute Description Form and pay the relevant fee.4. The fee should be divided equally between the disputing parties.5. A peer reviewed expert Preliminary Determination of the dispute, together with a detailed explanation of how it was reached, should be expected within one month after the Adjudication Application Form has been submitted.6. Each party will have 2 weeks to critically review the Preliminary Determination, and formally submit any supplementary supporting information with the relevant fee.7. A Final Determination should be expected within 2 weeks after the supplementary supporting information has been submitted.	
Date Submitted:	

Annex B

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DISPUTE DESCRIPTION FORM

Disputing Party No. 1	Disputing Party No. 2
Name:	Name:
Role [Note 1]:	Role [Note 1]:
Address:	Address:
Tel/Cell:	Tel/Cell:
E-mail:	E-mail:
Background to the Dispute:	
Why do you think that Disputing Party 1 could be right?	
Why do you think that Disputing Party 2 could be right? (Optional – but completing this section may resolve the dispute without having it adjudicated by a 3 rd party.)	
Supporting Evidence Submitted [Please submit one copy, and bring the original (for certification purposes)]:	
Notes: <ol style="list-style-type: none">1. Role can be: Homeowner, Contractor, Sub-contractor, Supplier, Financier, etc.2. All of the disputing parties will be asked to complete a Dispute Description Form and pay the relevant fee. The fee should be divided equally between the disputing parties.3. A peer reviewed expert Preliminary Determination of the dispute, together with a detailed explanation of how it was reached, should be expected within one month after the Dispute Description Form has been submitted.4. Each party will have 2 weeks to critically review the Preliminary Determination, and submit any supplementary supporting evidence with the relevant fee.5. A Final Determination should be expected within 2 weeks after the supplementary information has been submitted.6. Both sides must accept the Final Determination during the contract period. Any party may challenge the adjudicator's decision, in an arbitration or litigation process, but only after the Contract period.	
Signed:	Date:

Annex C

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DISPUTE DESCRIPTION FORM – *Example*

Disputing Party No. 1	Disputing Party No. 2
Name: <i>John Doe</i>	Name: <i>Henry Payne (Payne's Construction)</i>
Role [Note 1]: <i>Homeowner</i>	Role [Note 1]: <i>Contractor</i>
Address: <i>Lot 87 Samantha Drive Rasberry Hill, St John, Barbados</i>	Address: <i>26 Randal Industrial Park Ruby, St Philip, Barbados</i>
Tel/Cell: <i>(246) 000 - 0000</i>	Tel/Cell: <i>(246) 000-0000</i>
E-mail: <i>JohnDoe@gmail.com</i>	E-mail: <i>PayneC@hotmail.com</i>
Background to the Dispute: <ol style="list-style-type: none">1. <i>On 4th April 2015, Henry Payne of Payne's Construction (the Contractor) agreed to build a house for John Doe (the Homeowner) for \$360,000.00. [Evidence: Construction contract dated 4th April 2015]</i>2. <i>The house was described on the Town Planning drawings. [Evidence: Town Planning Application reference 2890/12/54D dated 2nd February 2015]</i>3. <i>The Contractor was to be paid in stages. [Evidence: Construction contract dated 4th April 2015]</i>4. <i>The Contractor has completed the foundation to the roof ring beam, but not the roof. [Evidence: Photos 1 and 2]</i>5. <i>The Contractor said that he needs more money because the foundation was deeper than he thought. [Evidence: Contractor's letter dated 6 June 2015]</i>6. <i>The Homeowner told him that that is not his problem. [Evidence: Homeowner's letter dated 10 June 2015]</i>7. <i>The Contractor said that he will not put on the roof or do any more work until he gets more money for the foundations. [Evidence: Contractor's letter dated 16 June 2015]</i>	
Why do you think that Disputing Party 1 could be right? <ol style="list-style-type: none">1. <i>The Contractor gave a quote, which was accepted, before he did the work.</i>2. <i>The Contractor did not tell the Homeowner anything about additional foundation work before he signed the contract and agreed to do the work.</i>	

3. *If the Contractor made a saving in another part of the work, then he is not going to pass those savings to the homeowner. Therefore, the Contractor should bear the additional foundation costs. Also, the Homeowner has no more money to spend.*

Why do you think that Disputing Party 2 could be right? (Optional)

1. *The Contractor claimed that he had priced his quotation based on his assumption that the foundations would not exceed 1.2 m (4 ft). He had to go down an average of 1.8 m (6 ft).*
2. *The Contractor told the Homeowner when the soil was being excavated for the foundations that it was deeper than he had assumed.*
3. *The deeper excavation meant additional excavation, fill, and blockwork, which cost the Contractor additional money.*
4. *Since the homeowner is benefitting from the additional materials, then the homeowner should pay.*

Supporting Evidence Submitted [Please submit one copy, and bring the original (for certification purposes)]:

1. *Construction contract dated 4th April 2015*
2. *Planning Application reference 2890/12/54D dated 2nd February 2015*
3. *Construction contract dated 4th April 2015*
4. *Photos 1 and 2*
5. *Contractor's letter dated 6 June 2015*
6. *Homeowner's letter dated 10 June 2015*
7. *Contractor's letter dated 16 June 2015*

Notes:

1. Role can be: Homeowner, Contractor, Sub-contractor, Supplier, Financier, etc.
2. All of the disputing parties will be asked to complete a **Dispute Description Form** and pay the relevant fee. The fee should be divided equally between the disputing parties.
3. A peer reviewed expert Preliminary Determination of the dispute, together with a detailed explanation of how it was reached, should be expected within one month after the **Dispute Description Form** has been submitted.
4. Each party will have 2 weeks to critically review the Preliminary Determination, and submit any supplementary supporting evidence with the relevant fee.

5. A Final Determination should be expected within 2 weeks after the supplementary information has been submitted.
6. **Both sides must accept the Final Determination during the contract period. Any party may challenge the adjudicator's decision, in an arbitration or litigation process, but only after the Contract period.**

Signed: *John Doe*

Date: *25th August 2016*