INVESTIGATION ON THE IMPACT OF ENGINEER'S DETERMINATIONS: A CASE OF SRI LANKA BASED ON FIDIC 1999 RED BOOK

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(179178L)

Degree of Master of Science in Construction Law and Dispute Resolution

Department of Building Economics

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DECLARATION

I declare that this is my own work and this dissertation does not incorporate without acknowledgement any material previously submitted for a Degree or Diploma in any other University or institute of higher learning and to the best of my knowledge and belief it does not contain any material previously published or written by another person except where the acknowledgement is made in the text.

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Ch.QS (Mr.) Vijitha Disaratna Date

Dissertation Supervisor

ABSTRACT

Investigation on the Impact of Engineer's Determinations: A Case of Sri Lanka Based on FIDIC 1999 Red Book

Construction industry is emerging day by day with their products having innovative and complex features. Due to the complexity of the projects, occurrence of disputes is inevitable. Accordingly, various types of disputes are arising in the construction industry. Sometimes, disputes occur due to the Engineer's unfair Determinations and/or unilateral rejections of the Contractor's Claims. Since these disputes are finally settled through the ADR process, both Parties have to suffer incurring additional time and costs. Hence, it becomes a serious issue which shall be addressed and to suggest the strategies/solutions to overcome the Engineer's unfair Determinations.

This research problem was approached through the case study of four number of completed Projects in Sri Lanka which were based on FIDIC Conditions of Contract. Semi structured interviews were conducted with five number of experts who are possessing experience as the Engineer for the Contract and involved in ADR process. The collected data were analyzed in terms of cross case analysis and manual content analysis. Documentation review was carried out to identify the effects and/or consequences of the Engineer's unfair Determinations and unilateral rejections of the Contractor's claims. Furthermore, identified reasons and strategies to overcome the Engineer's unfair Determinations which were obtained through expert interviews are presented in the conceptual framework presented in the Chapter four.

Findings of the research revealed that, most of the disputes occurred due to the Engineer's unfair Determinations and/or unilateral rejections of the Contractor's claims which have been overruled by the Decisions /Awards of the ADR methods in the selected cases. The research found that, aforesaid Engineer's unfair Determinations resulted the Parties to suffer incurring additional time and costs which could be prevented if the Engineer has correctly and fairly issued their Determinations. Thus, the research recommends to the industry practitioners to follow the identified strategies and solutions to prevent these unnecessary time and costs spend in terms of resolution of the disputes by way of ADR methods.

Key words: *ADR, Disputes, the Engineer, Parties*

"This dissertation is dedicated to my beloved
family for their unconditional love that motivate
me to meet higher targets…"

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Rasika Samanmali
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LIST OF ABBREVIATIONS

Abbreviation		Description
ADR	:	Alternative Dispute Resolution
CIDA	:	Construction Industry Development Authority
COC	:	Conditions of Contract
DAB	:	Dispute Adjudication Board
DB	:	Dispute Board
DRB	:	Dispute Review Board
EOT	:	Extension of Time for Completion
FIDIC	:	International Federation of Consulting Engineers' (FIDIC) Conditions of Contract
ICTAD	:	Institute of Construction Training and Development
SBD	:	Standard Bidding Document
SOC	:	Statement of Claim
SOR	:	Statement of Response

LIST OF APPENDICES