



CONSTRUCTION ADJUDICATION

“Strengthening ADR Alternatives for Bahamian Construction Industry”

CURRENT INDUSTRY STATUS

- No standardize Contractor Procurement
 - Public Contracts vary from Agency to Agency
 - Private contracts are drafted by lawyers that may or may not be familiar with nuances of construction
 - Contract Forms from international bodies (AIA, FIDIC etc) have to be adjusted to suit this environment.



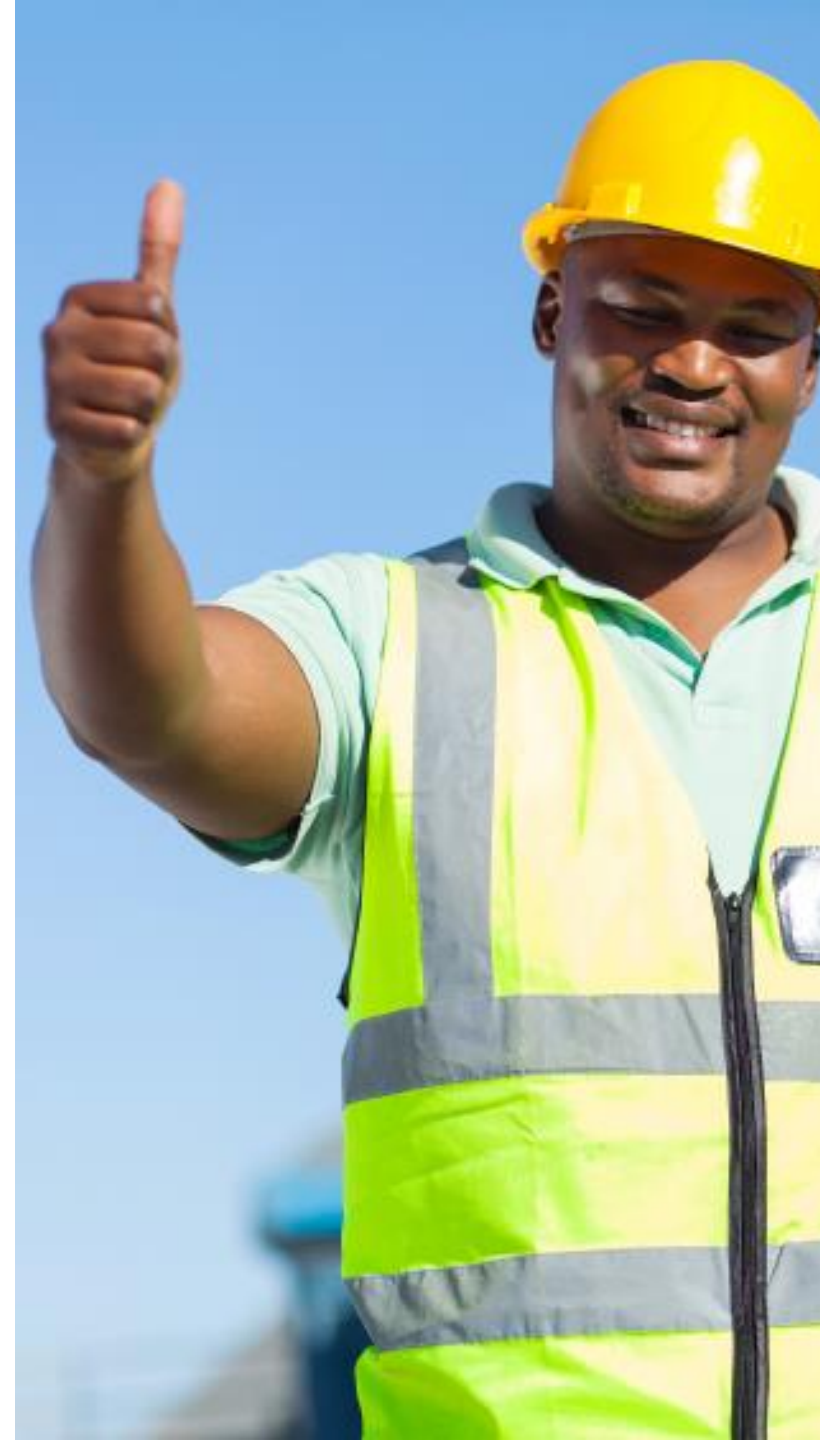
CURRENT INDUSTRY STATUS

- Litigation primary means of Dispute Resolution
 - Litigation Time Consuming & Costly
 - Both Contractors & Consumer suffer
- Little or No vehicle to better engage Construction Practitioner Professionals in the Dispute Resolution process



CURRENT DISPUTE RESOLUTION STATUS

- Industry is rife with complaint
 - Owner have high degree of mistrust & contractors are disadvantaged
 - No Security that disputes can be resolved, efficiently and economically
 - Construction disputes are referred to overburdened Civil Courts
 - Arbitration is currently used as an alternate means of dispute resolution mainly on large and significant projects
 - There is no statute that governs how construction disputes in particular should be resolved



ADR OPPORTUNITIES

- Migrate dispute resolution in Construction away from the Courts.
 - **Advantages:**
 - Quicker and more efficient dispute resolution process
 - Ability to better engage industry experts in the resolution of disputes
 - Allows for multi tiered resolution approach, negotiation, mediation, adjudication and arbitration.
 - Saves both the Owner & Contractor time and money
 - Allows projects to continue knowing that a framework that is supported by statute is in place for the resolution of disputes is in place.



OPPORTUNITIES FOR ADJUDICATION

- On Projects (Large & Small)
 - Where small amounts are at stake in a construction dispute.
 - Where temporary decisions can be made so that construction progress is not impeded.
 - For Contractors and Owners to have the assurance that there is statute that governs the dispute resolution process.



OPPORTUNITIES FOR ADJUDICATION

- On Projects (Large & Small)
 - For an Adjudication Body to provide knowledgeable and skilled Adjudicators, singular or boards that can provide Adjudication Services
 - For Financial Institutions have a better basis for understanding disputes, where liabilities lie, and can better assess whether Owner's and Contractors are at fault.
 - Lengthy Arbitration Proceedings which can still occur, becomes a final course of action and can be shortened.



WHAT NEEDS TO HAPPEN

- Legislative Framework for Adjudication must be put in place
 - Contractors Bill 2016 , & Arbitration Act 2009 make no provisions for the Conduct of Construction Adjudication



WHAT NEEDS TO HAPPEN

- More Education within the local built environment
 - Regularize forms for Contractor Procurement
 - Bahamian Form of Contract (particularly for public sector projects)
 - Educate Contractor and Consumers and Construction Stakeholders on the options for Dispute Resolution. (Negotiation, Mediation, Adjudication, Arbitration)
 - Proper training for potential Adjudicators, and industry stakeholders on the adjudication process, the limitations & outcomes.



WHAT NEEDS TO HAPPEN

- Education & Consultation should precede legislation. An finite understanding of how the industry works must be had before legislation is enacted.

