



# Tips on use of dispute resolution panels to overcome construction disputes

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In order to avoid unnecessary costs parties to a construction contract should consider diverse modes of resolving disputes prior to opting for litigation. Consideration of diverse modes by which parties may ventilate disputed issues offers an opportunity for them to act sensibly at an early stage. This is as opposed to seeking to settle matters through arbitration or litigation, which result in significant cost.

The use of dispute resolution panels can help keep costs arising from construction disputes at a minimum in addition to enabling swift resolution of disputes. Such a panel is established prior to the commencement of a construction project and offers a useful forum of persons with prior background knowledge of the process. All project participants need to consent to its use after which the number of the resolution panel members is agreed upon by the major participating parties.

## Powers of the Resolution Panel

The powers and duties of the resolution panel include:

1. The panel can 'hear' a difference or dispute and will decide on the date and venue for the hearing.
2. The panel is provided with all documents including contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the contract under which differences or disputes may be referred to the resolution panel.
3. The panel has authority to make a routine visit to the site at prescribed intervals during the course of the project at the request of any party to the contract.
4. Establish the procedure to be applied in deciding a dispute
5. Conduct any enquiry or hearing it sees as being necessary
6. Take the initiative in ascertaining the facts and matters required for a decision
7. Draw on its own specialized knowledge
8. Open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the contract administrator relevant to the difference or dispute.
9. The panel is to act fairly and impartially, providing each party to any difference or dispute a reasonable opportunity of putting its case and of responding to the other's case within the specified time limit and avoiding unnecessary delay or expense.

At AIP Advocates, we have lawyers who will guide you on legal matters arising from construction contracts while ensuring your interests are protected.

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