

RESOLUTION

The Newsletter of ARBICON ADR Ltd

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The key members of the Arbicon Team are:

Ian J Purser
Director

Jon Nugent
Director

Mike Norrish
Senior Consultant

Tim Dyson
Senior Consultant

Louise Steel
Marketing Manager

Lisa Herson
PA to the Directors

Professional Quantity Surveying Services & Alternative Dispute Resolution Services

Looking back on 2007 – but looking forward to 2008....

Firstly, on behalf of everyone at Arbicon ADR Ltd, we would like to wish you a successful and enjoyable 2008.

2007 has been a very successful year for Arbicon and we would like to share with you some of our highlights and looking forward into 2008 what our plans are for the coming year.



Busy, busy, busy and that's what we've been throughout 2007. We have taken on and completed a number of key contracts, working with many prestigious clients. This has included our first venture into the international field. As our business has grown so has our team with the recruitment of new staff including an office manager and several quantity surveyors.

The headline in March read Arbicon ADR goes international. Working for an Austrian construction company, we have been advising them on a substantial dispute and this continues on into 2008. Jon is now officially a jet setter having seen the inside of many airports and as we expand this area of the business he'll no doubt see many more in 2008.

We have also been involved in many contracts throughout the UK, providing professional quantity surveying and dispute resolution services to ensure the delivery of projects on time and to budget.

- B&Q superstore in Peterborough with Matalan and speculative store
- Wickes Store Harlow
- Kiddicare Mega store Peterborough
- Big Yellow Storage Edmonton

are to name but a few.....

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or visit our website at www.arbicon.co.uk

Throughout this year we have had the privilege of working with many prestigious clients.

These have included:

- McLaren Construction
- Speymill Contracts
- A G Aylwards EMS
- Kiddicare
- MPB Structures
- F E Peacock
- B & D Willett
- Winchmore Brickwork
- Elmcroft Services

And many more.....

We have hit the ground running in 2008 as we continue to be in demand. Looking forward our plans include the strengthening of the legal team with a new member joining in February. They will bring with them vast experience of the adjudication and arbitration procedures and practices, which will significantly improve the availability of resources to assist with immediate issues (as is often the case with adjudications). The contracts side has been supplemented this last year and further expansion is likely given the success of this area of the business.

The traditional side of the business is growing steadily and the directors will be reviewing the capacity of the business with the intention of supporting this demand.

Following on from our many enquiries for expert witness reports we plan to develop this specialism with a move to be more involved with the RICS Expert Witness panel.

A busy year ahead and we are looking forward to working with you in 2008. If you have any queries regarding our services please call us on (01480) 426560 or email advice@arbicon.co.uk we look forward to hearing from you.

THE COURT CLARIFIES SECTION 107 CONFUSION

Following a year of uncertainty, the court has finally produced an important enforcement decision which has cut the risk of adjudication to a clear minimum.

Defences pleaded that there is "no contract in writing" under section 107 of the Housing Grants Construction and Regeneration Act 1996 ("the construction act"), have of late made adjudications a real risk where contract details are incomplete.

Now in Harris Calnan Construction Co Ltd v Ridgewood (Kensington) Ltd (TCC 15th November 2007) the limits are clear. There are two major rules that arise from this no nonsense decision in respect of jurisdictional challenges in adjudication and what a contract in writing comprises.

1. Jurisdictional challenge – Reserving the position

If a jurisdictional challenge is raised and the complaining party takes part in the adjudication and does not clearly reserve its position, the jurisdictional challenge fails.

2. Contract in writing

The difficulty has been, how complete should contract documentation be to constitute a "contract in writing"? The law up to 15th November 2007 was "all of it" as per *RJT Consulting* case. This case has created problems where the majority of construction contracts are often incomplete and executed under a letter of intent. In Harris Calnan v Ridgewood (Kensington) HHJ Peter Coulson QC recorded that for the purposes of adjudication the following references to or agreements (in writing) would be sufficient to satisfy

the requirements of section 107 of the Construction Act:-

- a. Price
- b. Scope of work
- c. Contract period
- d. Reference to a set of standard contract terms (e.g. JCT, etc)
- e. A retention percentage value
- f. A liquidated damages value

If there is no express term that negates a contract such as "subject to contract" in say, a letter of intent and there is no dispute over terms, there will be a contract in writing given that (a) to (f) above are agreed and recorded or evidenced in writing.

If one makes a contract without formally signing, say under a letter of intent, ensure the risk is minimised from the start by taking note of the above guidelines and secure the ability to adjudicate. Any queries please call us on (01480) 426560 or email advice@arbicon.co.uk

NEW PERSONAL ASSISTANT JOINS IN DECEMBER

We are very pleased to welcome Lisa Herson to the team. Lisa is now PA to the Directors.

Lisa has 20 years experience as a civil servant. Most recently working at RAF Wyton as a Higher Executive Officer responsible for VIP visits and events in Defence Equipment & Support.



Arbicon ADR is now regulated by the Royal Institution of Chartered Surveyors (RICS)

Arbicon is a leading provider of Professional Quantity Surveying and Cost Management Services and Alternative Dispute Resolution Services including the following:

Arbicon are actively seeking high calibre QS staff to join their team and would like to hear from anyone interested in joining us, via email or phone.

Pre-Contract Services

- Cost planning
- Estimating & tendering (including audits)
- Bills of quantities preparation and production
- Commercial audits and reports
- Budget and cash flow forecasts
- Quantity and procurement checks
- Material scheduling
- Contract procurement
- Drafting of Employer's Requirements

Post-Contract Services

- Preparation of final accounts
- Contractual procedures advice
- Re-measurement
- Cost reconciliation reports
- Sub-contract account management
- Valuations for interim payments
- Variation and day work account valuation and control
- Extension of time claims
- Loss and expense claims
- Dispute resolution, mediation, adjudication and arbitration
- Support in litigation
- Risk management and dispute prevention
- Expert witness

ARBICON ACCEPTED ONTO CONSTRUCTIONLINE

With the New Year comes another milestone for Arbicon as we have been accepted onto Construction Line – the UK's register of pre-qualified local and national construction and construction-related suppliers. The concept of the register was initially proposed back in 1994 by the Latham Report, and since then has grown and been updated in-line with current e-procurement strategies, allowing both suppliers and buyers to streamline the procurement and tendering processes.



NEW SERIES OF SEMINARS BEGINS IN FEBRUARY

Arbicon continues to offer training seminars and starts the 2008 series with a half-day seminar on RISK MANAGEMENT in February. The seminar will cover topics such as the concepts of risk management, types of risk, preventative measures and adjudication. If this sounds like it might interest you, or indeed someone you work with, please don't hesitate to contact Lisa for more information. She will be delighted to provide additional information or to reserve places for you. Don't delay as places are strictly limited and are on a 'first come, first served' basis. Contact Lisa at lisa@arbicon.co.uk

CALL US NOW ON 01480 426560 or email us at advice@arbicon.co.uk

TO SEE HOW WE CAN HELP YOU



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