

DRBF Forum

Volume 17 Issue 4 December 2013/January 2014



User's Perspective on Dispute Boards: Conducting Dispute WiseSM Business Management

By Wolf von Kumberg, European Legal Director, Assistant General Counsel, Northrop Grumman Corporation

Global businesses face numerous risks. Northrop Grumman is an aerospace defense firm with 100,000 employees in 52 countries. We engage in multi-year product development and production programs, infrastructure programs with multiple parties, consortium and joint venture agreements, and cross border and multinational situations. In this environment, liquidated damages and delay penalties are the norm, and local law clauses are usually insisted on by host States. This creates a high-risk legal scenario where disputes are highly likely.

Disputes are bad for a company's reputation and business relationships with customer, contractors and suppliers. They are a drain on a company's resources, both financial and human. In addition to being time consuming, they rarely end in a satisfactory result and do not achieve

bottom line results. Business is in business to do business, not fight disputes. All of this has led to businesses that work globally to look at tools dealing with early issue business conflict management.

In 2006, the American Arbitration Association conducted a study measuring characteristics of in-house legal departments: "Dispute WiseSM Business Management: Improving Economic and Non Economic Outcomes in Managing Business Conflicts." The study found that well-managed business organizations took a portfolio approach to disputes:

"Typical of the portfolio approach is a willingness to take a more global view of the full spectrum of an organization's disputes – addressing each of them in relation to other disputes in the portfolio with an overall goal of minimizing risk, cost, time spent and resources expended, while preserving important business relationships." *(continued on page 8)*

"Those companies falling into the most dispute-wise category with respect to their handling of ongoing disputes are also actively engaged in conflict avoidance programs, putting in place a framework that both helps prevent disputes from arising and that deals with disputes in their earliest stages as close as possible to the point of origin."

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President's Page



Graham Easton
President
DRBF Executive
Board of Directors

Members, Supporters and Friends of the DRBF,

I am both pleased and honoured to take up the role of President of the Executive Board of Directors in 2014.

I am sure you will join me in thanking my predecessor, Roger Brown, for his tireless efforts during 2013 to promote the use of Dispute Boards worldwide. Roger's enthusiasm, experience and commitment to the cause of DRBF will be a hard act to follow.

In performing my role as President, I plan to visit and meet as many groups of DRBF members as possible in the Regions and Chapters around the globe. In particular, I hope to attend DRBF workshops and conferences in South Africa, Singapore, and Toronto. In this way, I will learn more of your diverse activities in the promotion, training of members and operation of Dispute Boards worldwide.

I also look forward to working with the Executive Board and our hard-working staff, including Ann McGough, our new General Manager, Steve Fox, our Administrative Manager and Lori Krutzsch, our Administrative Assistant.

2014 will be a busy year for the DRBF. In addition to all our regular activities, we will be embarking upon a significant upgrade to our website, including LinkedIn and Facebook. As we are a non-profit organisation, we rely very heavily on volunteers such as yourself who donate their time and energy to making these things happen. I would urge each of you to make a contribution or assist the DRBF in some other way.

The DRBF vision for the future is now firmly focussed on dispute avoidance and prevention. Dispute resolution, while still an important issue for the parties in many projects, is happening less often across today's landscape as a result of the presence of Dispute Boards. In some jurisdictions, owners are now referring to all their Boards as "Dispute Avoidance Boards".

There will be several important developments in the evolution and practice of Dispute Boards in 2014. As part of the extended DRBF family, we will be keen to share these with you via the medium of the Forum and our various conferences.

I wish you all well for a healthy and prosperous year in 2014.

A handwritten signature in black ink that reads "Graham Easton". The signature is written in a cursive style and is located at the bottom of the page, below the main body of text.

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Executive Board of Directors

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Executive Board of Directors Meeting Schedule

December 16
January 20
February 14

Meeting notes
from the
Executive Board
meetings are
available to all
members on the
DRBF website.

The Board of
Directors for
each region
meet on a
regular basis.
Questions or
ideas for the
Boards should be
submitted to the
Board President
directly or to
Ann McGough at
amcgough@drb.
org.



In Memorium: Max McDougall 1922-2013

Max McDougall passed away peacefully on 8 November 2013. He was a highly successful Civil Engineer, who made a significant contribution in his field, particularly in arbitration and dispute resolution.

He became an early advocate of the use of Dispute Boards and joined DRBF on 31 August 1996. He was the Country Representative for Australia from 1996 until his retirement in 2003.

In 2003, Max joined with a small group of like-minded individuals to form the Dispute Resolution Board Australasia Inc., the Australasian chapter of the international Dispute Resolution Board Foundation. The promotion of the use of DRBs in the construction and infrastructure industries within Australia since 2003 has resulted in billions of dollars of projects being delivered without any disputes.

Max was the second of three children born to a New South Wales (NSW) country minister. He lived in various country towns in his youth before his parents moved to Sydney in 1938. He won a scholarship to study engineering at Sydney University, graduated before the end of WW II, and spent 1944 and 1945 in Darwin and Papua New Guinea as part of the Airfield Construction Group.

After the war, he worked on two major dams in NSW, the Hume Weir and the Eucumbene Dam, then joined the Snowy Mountains Hydro Electric Authority as Executive Engineer on the administration of upper Tumut contracts.

In 1961 he returned to Sydney and joined leading Australian contractor Thiess Brothers as Chief Engineer. In 1963, he commenced practice as a consulting engineer in partnership with Len Gilmour, specialising in estimating and claims. He worked in many areas of Australia and also Papua New Guinea. He formed his own practice (TM McDougall Pty Lt) in 1987 after the retirement of Len Gilmour. He became a highly respected 'expert witness' in engineering court cases, and his experience in these areas led him into the legal aspects of contracts, eventually becoming a highly regarded Grade 1 Arbitrator and a NSW Supreme Court appointed Referee. His awards were characterised by balance and accuracy, and he had a strong belief that arbitration was preferable to court actions.

In April 2004 he was made a Life Fellow of the Institute of Arbitrators and Mediators Australia.

Outside engineering, Max had wide interests, including travel and music. He will be fondly remembered and sorely missed by his wide group of friends and professional associates.

Max's wife Betty passed away in 2002. He is survived by his children Bob and Ann, five grandchildren and two great-grandchildren, and a number of nieces and nephews.

DRBF Region 2 Board of Directors Call for Nominations

Region 2 of the DRBF has a seven person Board of Directors. At the upcoming International Conference in May, the Board will transition and the positions of President Elect and one general Board member position will be vacant. The Elections Committee, consisting of Jim Perry, Chris Miers, and Paul Taggart, invites all Region 2 members interested in serving on the Board to submit their candidacy.

- a) Each candidate must have a proposer and a seconder. Candidate, proposer and seconder must be members of the DRBF for at least 3 years.
- b) The candidate must be, or commit to become, a sustaining member of the DRBF.
- c) A candidate for the position of President Elect (other than regular Board member) must provide, with his/her CV demonstration of having participated actively in the organization of the DRBF (be it as Country Representative, committee member or other).
- d) All candidates must supply their CV, which will be distributed to the membership with the invitation to vote.
- e) All DRBF Region 2 members have a vote.
- f) Voting is done by e-mail, in advance of the Annual International Conference.
- g) The Elections Committee is the organizing body of the election.
- h) The President Elect serves for 3 years: President Elect, President, Past President.
- i) Terms start and end at the Annual International Conference, usually held in May each year.

Proposals may be sent to the DRBF office by email, fax (206-878-3338) or letter to:

DRBF
Region 2 Board of Directors Nomination
19550 International Blvd. So Suite 314
Seattle, Washington 98188 USA

Nominations must be made by 28 February 2014. Ballots will be distributed to all Region 2 members in April.

Thank you for your consideration and recommendation of candidates to help lead our Foundation as it continues to grow and spread the message of the Dispute Board process worldwide.



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The Forum is published quarterly by the Dispute Resolution Board Foundation (DRBF). Any opinions expressed are those of the authors and do not necessarily represent the opinions of the DRBF.

The Forum welcomes articles on all aspects of Dispute Resolution Boards, and members are encouraged to submit articles or topics to the DRBF, attn: Editor.

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Ethics in Today's World of DRBs:

Revisiting the Ethics Panel of the DRBF 17th Annual Meeting & Conference



Jim Phillips Ph.D.
Chair
DRBF Ethics
Committee

It was great to see so many of you in Miami for the DRBF Annual Meeting and Conference. From what I have heard from those who were in attendance, it was a meaningful learning, sharing and networking opportunity. For those of us who ventured out to the golf course, despite some of the scores, we did have a lot of fun. Thanks again to Gwyn Owen for organizing the event!!

In this column, I want to reiterate the points that we discussed in our panel on ethics, primarily because the topics we discussed were those that were the most important/popular with those we surveyed beforehand, and to our panel. The session, "To Disclose or Not To Disclose? That is the Question," included Roger Brown, Christopher Miers, and Bob Rubin, and I served as moderator.

The theme, as the title suggested, was certain activity that can create the appearance of a conflict of interest. The first question the panel discussed was should a Foundation member actively solicit one or both parties to the contract for an appointment to a project's DRB? The discussion brought out many good ideas about the process of being selected for a DRB. The discussion also raised questions about how far in lobbying should an interested Board candidate go in "selling themselves" to an owner or contractor. The consensus was that it is perfectly acceptable to indicate an interest in, qualification for, and availability for a project, to the extent that the candidate is not pressuring any party for a selection, or harassing already selected Board members to be named to other seats on the Board. In keeping with the theme of "how far is too far," the group

agreed that it depends on the party to the contract being solicited and the nature of his/her relationship with the person seeking the nomination. I do not recall anyone voicing the view that unduly harassing anyone was a good idea or the way to be selected to a Board.

Another topic was the question of creating an appearance of a conflict of interest, which is largely a question of perception. The discussion centered on the fact that conduct in some circles would create an appearance of a conflict, while in others would not, depending on the people involved and the relationships between them. The key was to consider what an independent third party would conclude after observing conversations and exchanges of information and being mindful about what someone else could read in to the conversation. One member made the point that there is nothing wrong about having friendly conversations with owners and/or contractors, the key is where they take place.

My favorite topic was the case where a DRBF member takes various parties pheasant hunting, and in one of the hunting parties is the president and owner of a construction company. While the DRBF member has never been selected by this owner for a DRB, the question was whether the Foundation member should disclose the relationship and the fact of hunting together. Most everybody agreed that the relationship should be disclosed to avoid an "appearance" of a conflict. This raised the broader question of whether any of us who are not certain about disclosure, should lean in the direction of disclosure. There is the adage that has been discussed here be-



fore, “if in doubt, always disclose”. That may be a good rule of thumb to follow if ever in doubt.

I believe that one of the keys to these questions is to consider how our conduct might appear to a third party, and what we can do to avoid this “appearance” question. It is interesting how quickly perception becomes, for some, a reality. Once a party loses confidence and trust in the impartiality of a DRB, it may become difficult to restore. Another key is to disclose any relationships or interests one might have with the parties to the contract, even something as seemingly innocent as going pheasant hunting.

Our practices and professions are predicated on professional relationships. I do not believe that the DRBF’s Code of Ethics suggests that members should not develop good relationships with those who we have worked with for years, or for a short time frame. All of us tend to trust those we know more than those we do not. That is the cornerstone of working professionally in this industry. The panel in Miami was attempting to point out ways to avoid appearances of conflicts, and to encourage disclosure of events or relationships that could call into question and jeopardize the years of effort we have all invested to make the

DRB and the DAB a process that can be instrumental in avoiding projects not being completed, projects running behind schedule and over budget, and projects that result in expensive and time consuming litigation.

FOR NEXT TIME

Assume you have been selected and approved by the parties as a member of a DRB and that another candidate has also been selected and approved. The contract documents call for the two previously approved members to select the third member and Chair. Assume that each of you have several individuals that you have worked with in the past on DRBs that you both think will be excellent choices. Assume further that, after weeks of discussions, you cannot agree on a third member. What should you do?

**Ethics Commentary
or Question?**

Please contact:
Jim Phillips, Chair
DRBF Ethics Committee
P: +1-804-289-8192
E: jphillip@richmond.edu

Forum Newsletter Editorial Deadline

Our readers love to hear DRB success stories, challenges facing the process, and the latest industry news and events. If you have new information about DRBs, DRBF members, or an article to share, please tell us! Contact Forum Editor Ann McGough by email at amcgough@drb.org

Deadline for the March issue is
February 15, 2014

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Corporation



(continued from page 1)

“Those companies falling into the most dispute-wise category with respect to their handling of ongoing disputes are also actively engaged in conflict avoidance programs, putting in place a framework that both helps prevent disputes from arising and that deals with disputes in their earliest stages as close as possible to the point of origin.”

There is now a general appreciation amongst my peers in global companies that being “dispute wise” is one of the best contributions the in-house lawyer can make to the bottom line. Dispute wise companies are concerned about maintaining good relationships with all stakeholders.

Benefits to being dispute wise identified in the AAA study included:

- A stronger relationship with customers, suppliers, employees and partners;
- Valuing the fairness and speed of ADR processes in resolving disputes with customers, contractors and suppliers, while turning away from litigating at any cost
- Lower legal budgets and management of legal costs with a higher degree of efficiency and accuracy
- A better utilization of company resources
- A more effective role for the in-house legal function

Becoming Dispute WiseSM

A traditional approach to disputes deals with addressing the core issue of the dispute itself. This only deals with the legal issue.

What is required is an early intervention involving addressing the actual conflict through an effective conflict resolution process.

This requires a two-pronged approach:

- a) conflict avoidance
- b) conflict management

Conflict Avoidance

The key elements to conflict avoidance are:

- identifying potential conflict points in an industry by looking at historical data
- building into contracts mechanisms to deal with these historical conflict points
- expanding the scope of pre-contract dialogue to include groups outside of the immediate contracting parties
- seeing the bigger picture beyond the contract itself, including future programs, expanding relationships, sharing of economic and cultural opportunities
- early engagement with neutrals to help build consensus at the pre-contract and contract formation stage to bring an objective view into the relationship
- building neutrals into the contractual relationships to permit a venting of steam when questions arise during contract performance before developing into a conflict.

Dispute Boards

The key objective is for the contract to continue be performed by all parties (internal and external to the conflict) while the conflict is dealt with.

What this dispute-wise approach requires is for companies to move from tradition-



al approaches of litigating disputes to an approach requiring vision and innovation. It requires parties to listen to needs and expectations, not merely contractual terms and conditions.

Parties must be willing to collaborate to find ways to avoid disputes in their contractual relationships. Dispute Boards are a mechanism for achieving this.

The perceived advantages of Dispute Boards include:

- built into the contract terms
- permits parties to choose appropriate neutrals to sit on the Board
- permits inclusion of subject matter experts
- allows flexibility as to how the Board is convened
- provides for a neutral mechanism to permit conflicts to be dealt with in an objective forum, while permitting performance to proceed
- cost can be anticipated and built into the project costs (unlike litigation)
- overall cost of avoiding conflicts is small compared to the risk of the project failing to be delivered
- permits flexibility to consider social and cultural issues faced in the place of performance
- permits needs to be addressed rather than simply addressing legal issues
- stops minor disagreements from becoming major conflicts.

It is my belief that Dispute Boards will increasingly become part of a company's toolkit to help avoid and manage conflicts on large-scale projects, particularly in those projects that are multi-party and multi-national in scope. Traditionally, Dispute Boards have been used on construction infrastructure projects, but

there is no reason why they might not be used on a large-scale collaboration of any type.

I have recently been involved in a round table of Aerospace Industry senior lawyers. The view was that Dispute Boards could play a role in some of our large-scale projects. The consensus was that the States with whom we contract are the primary bar to this occurring quickly, largely due to perceived costs of implementation and also due to lack of understanding of what Dispute Boards are. It was agreed that the best way to approach this obstacle was through an awareness campaign, meeting with Government customers and alerting them to the benefits of Dispute Boards.

The message is clear. Where there are humans involved there will be conflict, and Dispute Boards are yet another method to proactively diffuse them.

DRBF Calendar of Events

February 27-28, 2014

DRBF Regional Conference
Johannesburg, South Africa

March 26, 2014

DRBF Northern California Regional Conference
West Sacramento, California

May 15-17, 2014

International Conference
Singapore

May 30, 2014

Northwest Regional Conference
Seattle, Washington

Visit www.drb.org for complete event details and registration.

CHARTER MEMBERS CONTINUED

- Mechanical Contractors Association of Western Washington
- Meyer Construction Consulting
- Mole Constructors, Inc.
- Nadel Associates
- Stephen J. Navin
- John W. Nichols, P.E.
- Parsons Brinckerhoff
- Quade & Douglas, Inc.
- Pease & Sons
- Edward W. Peterson
- H. Ray Poulsen Jr.
- Quadrant II Inc.
- John Reilly Associates
- Arthur B. Rounds
- Seifer Yeats & Mills L.L.P.
- Shannon & Wilson, Inc.
- J.F. Shea Co., Inc.
- Patrick A. Sullivan, Esq.
- Traylor Brothers, Inc.
- Underground Technology Research Council
- Watt, Tieder & Hoffar, L.L.P.
- James L. Wilton
- Ed Zublin AG



Potential Use of DRBs in an Expanded Role on Design Build Projects

By Kurt Dettman and Charles Juliana

Introduction

Under the conventional design-bid-build project delivery approach, the Dispute Review Board (DRB) typically is used to prevent and resolve disputes between the owner and the contractor. However, many owners are now using or considering alternative project delivery approaches such as Design Build. This article explores potential claims within the Design Build Team (DB Team) and proposes an expanded role of the DRB to cover both the owner—Design Build contractor interface and internal DB Team claims.

Background: Design Build Project Delivery

Design Build (DB) is a method of project delivery in which a contract is executed with a single entity (the DB contractor) to provide both design/engineering and construction delivery services for a fixed price. The DB contractor is generally selected on a best value basis (qualifications, price, and other factors). The contract in this approach typically progresses through two phases: (1) completion of a higher level of design (60%+) prior to (2) fixing the price as Guaranteed Maximum Price and then finalizing the design and completing construction. However, a DB contractor can also be procured initially on a competitive bid basis of a Lump Sum Price, where the level of design could be as little as 10% (conceptual) or as much as 30% (preliminary engineering).

Owners benefit in DB project delivery from reductions in the cost and time to complete projects because design and construction can be fast tracked and sequenced in parallel so that materials/equipment procurement and construction work begin sooner. The owner also benefits from reduced procurement cycles that are typically required in selecting a designer and then preparing fully designed

bidding packages. Furthermore, it has been demonstrated that contractors and designers, working as an integrated team, can produce less expensive and better designed structures and facilities. This also expands opportunities to use innovative construction technology, accelerated scheduling, and improved means and methods that are incorporated into the final design. Moreover, because the DB contractor is solely responsible for the completed project, the DB contractor also is motivated to advance a quality project throughout the design and construction process.

Claims Within The DB Team¹

On DB projects, owners, for good reason, focus on dispute prevention and resolution only as between themselves and the DB contractor. After all, under the typical DB contract, owners transfer the risk of both designing and building the project to the DB Team. Therefore, most owner/DB contractor disputes revolve around issues of whether the DB Team can make a claim for scope and pricing issues under the DB contract in light of the broad transfer of risk. There are, however, DB contractor claims that still can be made, including, for example:

- whether the owner retained the risk of certain issues;
- whether there are materially changed conditions from the project technical requirements that impact the as-bid design scheme;
- whether technical alternatives to the owner's Indicative Design and/or technical requirements would result in an "equivalently compliant design/construction," which may have been the basis of the DB Team's proposal;
- whether the DB contractor's price included (or did not include) certain scope items;
- whether the owner has interfered with the DB contractor's final design author-

¹ See Dettman K. and Kane, C. "Optimizing the Use of DRBs on Construction Manager/General Contractor and Design Build Projects," DRBF Forum August 2012.



ity within the scope of the transferred risk; and/or

- whether there were project delays with uncontrollable circumstances, and/or other relief events, not within the contemplation or control of the DB Team.

These types of claims typically are brought to the DRB for findings and recommendations. Underlying some of these types of DB contractor claims, however, may be issues and potential claims as between the DB contractor and its trade contractors and/or designer.

A. Design Build Contractor—Trade Contractor Claims

The DB contractor typically subcontracts much of the construction scope to trade contractors. As noted, the DB approach includes a broad transfer of risk from the owner to the DB Team for the totality of the design and construction scopes of work. The DB contractor (that typically leads the DB team) “flows down” those risks on a “back to back” basis to all the trade contractors. This flow down of risk obviously creates friction points where claims can arise. These friction points generate claims made by the trade contractors against the DB contractor that are more typical of a design-bid-build project: for example, differing site conditions, changed conditions, events causing time delays or impacts, and extra costs for out-of-scope work, etc.

Some of these trade contractor claims may be “pass-through claims,” that is, the DB contractor has the right to sponsor the claim against the owner under the DB contract. The typical claims noted previously could be examples of pass-through claims that can occur even under the DB contractor, if they fall within risks that were retained by the owner. These types of pass-through claims would, therefore, be presented to a DRB as a conventional DB contractor vs. owner claim.

There may, however, also be claims by trade contractors that are internal to the DB Team. For example, there may be risks that the owner has indeed passed to the DB contractor. Constructability issues may rest with the DB contractor because it is responsible for completing a constructible final design with the DB Team designer. Thus, if a trade contractor claims constructability issues within its scope of work, that may be entirely within the DB Team to sort out, because that claim cannot be passed upstream to the owner. A similar type of claim might arise with respect to meeting performance requirements mandated by the owner and accepted by the DB contractor, but that a specialty trade contractor cannot meet.

These trade contractor vs. DB contractor claims that cannot be passed through to the owner nonetheless impact the financial and other performance of the DB Team, and there needs to be some mechanism to resolve them without impacting the overall project.

B. DB Contractor—Designer Claims

The “flow down” provisions noted above also typically apply to the designer, which is in a subsidiary role supplying professional architectural or engineering design services often as a “design subcontractor.”

Fundamentally, DB contractors and their trade contractors are used to accepting typical construction project risk, which includes “hard money bid risk,” such as material and equipment escalation costs, time scheduling to achieve preset project milestones, responsibility for means, methods and sequencing of construction, and warranting the workmanship in a typical, broad “defect free” product type manner. All of these risks are ones that the typical design professional is not only unfamiliar, but are ones, if accepted outright, may impact the primary means that design professionals manage and control project risk. Generally, DB Team designers are more risk averse, as typically design pro-



professionals provide design services to owners directly.

In this context the DB Team designer's exposure is linked to the typical professional service providers' negligence-based standard of care. This, in turn, establishes the necessary predicate for the negligence trigger that initiates the professional liability analysis that is fundamental to the indemnity obligations of professional liability insurance carriers. Accordingly, the DB Team designer's perspective is much more narrowed to a standard of performance (and risk profile) that is fundamentally less than a DB contractor is willing to accept to meet the owner's requirements and desire to shift construction and design risks to one entity to deliver the "bricks and mortar" end product.

This gives rise to a natural tension in the DB delivery model between the DB contractor on the one hand, and the Designer on the other. DB contractors accept conventional construction risks as the prime under the DB contract, and then "flow down" those contractual requirements to the DB Team designer. The DB Team designer will be resistant to accept this type of risk, especially where that risk differs from or is in addition to the professional standard of care that would be covered by the designer's professional liability policy. This tension is compounded by the nature of the typical DB procurement process, where DB Teams, under severe time pressures, must put together what amount to "hard money" GMP/LSP-type bids based on the owner provided "Indicative Design Criteria" that is generally prescriptive, and upon which the Designer is expected to advance to 15-20% design documents for the Constructors' and construction subcontractors' bidding. Moreover, many DB bid packages have reams of unfiltered information that the owner provides (for example, information and documents on right of way, environmental, utilities, etc.) that the

DB Team may have to digest in a short bidding time frame, or ultimately may not even be entitled to rely on. All these risk factors intersect when the DB Team has to define for its bid what the final design may eventually be; how the project is going to be built and in what time frame; and how much all of that is going to cost on a GMP basis.

This has all the ingredients for potential claims between the DB contractor and its designer if it turns out that the actual DB scope, design, schedule and cost is different than what was predicted at the time of bid. Bearing this out, approximately 70% of claims by DB contractors against designers within DB Teams related to issues before construction start, that is, claims that related to the designer's work in putting together the DB bid as it relates to design approaches and related time and cost estimates.² The remaining 30% of claims related to constructability issues and design defects in completed work within the DB scope and specifications. Thus, just as there are scope and pricing claims brought as between the owner and constructor under the prime DB contract, there are echoes of such claims that reverberate within the DB Team.

Why Should Owners Be Concerned About Internal DB Team Claims?

An owner might rightly ask: "Why should I care about claims within the DB Team - isn't that why I entered into a 'single point of responsibility' DB contract?" There are several reasons why owners have an interest in having claims within the DB Team resolved amicably and in "real time" as the work progresses.

First, an owner may promote partnering and a "best for project" approach for the entire project team. But, disputes and claims within the DB Team can adversely affect overall project performance. If, for example, the DB

² Presentation at the Donovan Hatem Design Professional Roundtable by David J. Hatem and Charles Juliana, entitled "Risk Allocation Issues for Design Professionals on Design Build," June 6, 2013.



contractor has claimed additional work, cost or time based on “changed conditions,” “out of scope,” “out of price,” and its claim has been denied by the owner, the DB contractor may look to the designer for recovery. This diverts the DB contractor and designer from the primary goal that promotes the overall quality and delivery of the project: the advancement and approval of the Release for Construction (RFC) plans and drawings. This, in turn, has a corrosive effect on the DB contractor to be able to get owner sign off on RFC plans and drawings, thus slowing the pace of, and potentially suspending, construction in the field. Arguably from an owner’s perspective “this does not matter” as it can, at least contractually, threaten the constructor if it does not meet contract milestones—however, that right does not necessarily lead to faster and more cost effective project completion. And it potentially may result in the owner relaxing some of its technical requirements to support a mitigation of claims that started as a DB contractor request for compensation.

Second, if there are these types of disputes brewing between the owner and DB contractor, they will have been surfaced during regular DRB meetings. For example if this happens during the DB Team’s final design phase, and in advance of the approval of the RFC drawings and commencement of construction, a proactive DRB will work with the parties to get these issues timely resolved so as not to impact the progress of the project. Thus, these circumstances lend themselves to the promote resolution of these types of residual commercial issues initially between the owner and the DB contractor, and secondarily between the DB contractor and designer, of course depending ultimately on the outcome of the DB contractor-owner claim.

Third, looking at the dispute resolution process from a holistic perspective, if the DB contractor does make a claim against the owner, project resources will already have been invested in the DRB process. The par-

ties will have prepared position papers, prepared for and conducted a DRB hearing, and used their resources to review and respond to the DRB’s findings and recommendations. Even if the DRB issues findings and recommendations that ultimately do not support the DB Contractor’s claim, there need not be a large expenditure of resources to have the DRB consider additional issues associated with residual claims within the DB Team since the DRB will already have most information it needs on facts and circumstances of the issues. Likewise, from a larger project interest perspective, if the internal issues within the DB Team can be resolved in a manner that fosters collaborative DB Team behavior, the project will move forward to support the Owner’s objective of timely completion of the project in a manner that meets the contract requirements, without residual claims.

Potential Expanded Role of the DRB

For these reasons, the authors propose that owners and DB contractors expand the DRB’s jurisdiction to include resolution of residual claims within the DB Team. This is how the process could work:

1. As to the typical type of DB claim between the owner and the DB contractor, the DRB will initially play its conventional role of hearing and determining whether the DB contractor’s claim has merit under the DB contract. If the DRB concludes that there is merit to the DB contractor’s claim as to the owner, then the owner and DB contractor can decide whether to resolve it in accordance with the DRB’s report.
2. If the DRB concludes that there is not merit to the DB contractor’s claim, the DRB’s role need not end there. If the DB contractor and trade contractors/designer wish, they can request that the DRB further consider the determination of liability and the allocation of costs as between the DB contractor and trade



contractors/designer. To do this, the DRB could use the following process:

- a. The owner would not have any responsibility for the administration of and costs for this secondary process; the costs of the process would be split between the DB contractor and the participating trade contractors/designer.
- b. The DRB would administer a process for a limited additional exchange of position papers and a DRB hearing—the hearing would be focused only on the allocation of responsibility and costs within the DB Team.
- c. The owner would be permitted to participate in the process as an observer, if it wished.
- d. The DRB would issue findings and recommendations limited to the disputes within the DB Team. The DB Team members involved would decide whether to accept the DRB's findings and recommendations, and the result would be reported to the owner.
- e. The DRB findings and recommendations on the DB Team internal claims could not be used against the owner in any proceeding and the owner would not have any further responsibility beyond any existing rights the DB contractor already had under the DB prime contract to further pursue the DB contractor - owner claim (if any).
- f. If the DB contractor and the trade contractors/designer did not resolve the dispute(s), they would be entitled to pursue any remedies available to them under the DB Team contracts.

Conclusion

With the advent of alternative project delivery, and the profound changes it makes in risk allocation, project management, and types of potential claims, DRBs should be looked at as a flexible resource to be used outside of the traditional “owner-constructor box.” The use of the DRB to help avoid and resolve claims within the DB Team would be an example of how the DRB role could be expanded to assist project participants in different and expanded ways that serve the overall interests of the project while still respecting the contractual allocation of risks.

Kurt L. Dettman is the DRBF Region 1 Director of Training, Chair of the DRBF Training Committee, Co-chair of the Region 1 Transportation and Energy Committees, and President Elect of the Region 1 Board of Directors. He can be reached at kdettman@c-adr.com.

Charles Juliana is a Vice President, and the Senior Legal Counsel for Construction and Alternative Delivery for AECOM Technical Services, Inc., and provides international legal support for AECOM's P3 Advisory, Water Design Build and Minerals/Mining EPCM Business Units. He can be reached at Charles.Juliana@aecom.com.

Associated General Contractors ConsensusDocs Issues DRB Addendum Specification and Three-Party Agreement

Background

ConsensusDocs publishes a comprehensive catalog of 100+ documents. ConsensusDocs are the only standard contracts developed by a diverse coalition of 40 leading associations with members from all stakeholders in the design and construction industry. ConsensusDocs contracts incorporate best practices and fairly allocate risk to help reduce costly contingencies and adversarial negotiations.

In 2012 ConsensusDocs established a DRB Addendum Working Group Co-Chaired by Kurt Dettman and Deborah Mastin. The Working Group was comprised of construction industry professionals who worked by consensus over several months to draft a proposed Dispute Review Board Addendum (DRB Addendum) and Three Party Agreement (TPA) that would be new standard forms for use when parties select the use of a DRB as a dispute mitigation measure pursuant to Article 12 of the ConsensusDocs 200.

The proposed ConsensusDocs Addendum 200.4 and TPA 200.5 were based on the DRBF Guide Specifications and TPA, and addressed the following topics:

- General Provisions Regarding DRB Responsibilities
- DRB Member Qualifications (e.g., no conflicts of interest; disclosures)
- Establishment of the DRB
- DRB Meetings
- DRB Advisory Opinion Process
- DRB Dispute Submission Process
- DRB Hearing Process
- DRB Reports
- Three-Party Agreement (e.g., role/responsibility; canons of ethics)
- Miscellaneous Provisions

The DRB Addendum and TPA provide a guidance specification; assist in the appointment of appropriately qualified and neutral DRBs; promote uniformity of practice

across projects; and implement DRB best practices. ConsensusDocs approved both the DRB Addendum Specification and TPA and published them on August 30, 2013. Also to be developed will be accompanying guidelines that will provide further guidance on certain details.

The DRBF Executive Board of Directors also entered into a Memorandum of Understanding Between the Associated General Contractors of America (AGC) and Dispute Resolution Board Foundation, Inc. (DRBF) As an Endorser without Revenue Sharing Concerning Collaboratively Producing and Marketing Design and Construction Contracts. By entering into this MOU the DRBF became the 40th endorser of ConsensusDocs and will now have the right to comment on all ConsensusDocs agreements and forms.

Conclusion

The issuance of ConsensusDocs DRB Addendum and TPA reinforces the use of DRBs as an industry best practice. The DRBF Manual Update Committee will be taking into account the form of the ConsensusDocs DRBF Addendum and TPA as a recent indication of industry input on DRB best practices. In the future the DRBF will work with other industry groups that issue standard form construction documents to determine whether they are interested in following a similar path for the wider use of DRBs. Further updates will be given to DRBF members as these initiatives develop.

Submitted by Kurt L. Dettamn, President Elect of DRBF Region 1 Board of Directors and Region 1 Director of Training. He can be reached by email at kdettman@c-adr.com



Visit the ConsensusDocs website to learn more and read the press release announcing the DRB Addendum Specification and TPA.

As a ConsensusDocs Coalition Member, members of DRBF receive Member pricing on all ConsensusDocs products. DRBF members should use Discount Code "DRBF100" when purchasing at www.consensusdocs.org.



Differences Between DRBF Model Specification and ConsensusDocs Issues DRB Addendum

The ConsensusDocs addendum compares very closely with the model DRBF specification which is available on the website (www.drb.org/manual.htm). To assist prospective DRB Members and specifier in identifying the differences between the model specification with which they may be familiar and the ConsensusDocs addendum, the following comparison has been developed.

1. Conflict Guidelines

The Manual refers to the contracting parties as “directly involved”. ConsensusDocs refers to them as “parties”. The Manual refers to construction managers, designers, and other professional service entities as participants “indirectly involved”. ConsensusDocs refers to these as “involved entities.”

- a. The Manual prohibits those who currently consult to parties “indirectly involved” from serving as Board members. The ConsensusDocs version allows service, pending disclosure and permission.
- b. The Manual requires disclosure of previous financial ties to “indirectly involved” parties. The ConsensusDocs version does not address this point.
- c. The Manual requires disclosure of close personal or professional relationships for both “directly” and “indirectly” involved parties. ConsensusDocs prohibits service for those with current close personal or professional relationships with the “parties”, but does not address relationships with “involved entities”.
- d. The Manual Prohibits Board members having discussions regarding subsequent agreements/employment with any party, either directly or indirectly involved. ConsensusDocs only requires disclosure of such discussions.
- e. The Manual requires a Board member to disclose their selection to any other DRB upon which they are serving if one of the Parties is also involved in the other project. ConsensusDocs does not address this issue.

2. Information Prior to Appointment

- a. The Manual requires that Board member nominees be provided with project information and the DRB specification. ConsensusDocs does not address this in the list of material to be provided.
- b. The Manual requires that Board member nominees provide a detailed list of past DRB participation. The disclosure statement required by ConsensusDocs is not as detailed.

3. Operating Procedures

- a. The Manual requires that operating procedures be approved by both the Contractor and the Owner. ConsensusDocs requires only that the Parties be “consulted” about the Operating Procedures.

4. ConsensusDocs Information Not Found in the Manual:

The ConsensusDocs specification includes a number of things that are not included in the Manual spec. Some of these things are discussed in the Manual and may be included in the DRB operating procedures. These include:

- a. A list of material required to be furnished to the Board members prior to the initial meeting of the DRB.
- b. A statement of the DRB purpose.
- c. The inadmissibility of statements made at periodic DRB meetings.
- d. A statement that “involved” parties may be invited to attend periodic DRB meetings.
- e. The Chair will set the time for exchange of materials to be used at hearings.



- f. Personnel directly involved in the dispute and any prior negotiations are required to attend hearings.
- g. Requires the exchange of expert reports as part of the pre-hearing submittals by each Party.
- h. Subsequent dispute resolution processes may include either a binding process or mediation.

5. **Manual Information Not Found in ConsensusDocs:**

The Manual specification includes a number of things that are not included in ConsensusDocs:

- a. Written advisory opinions will not be provided, unless requested by the Parties.
- b. If one Party fails to meet specified time requirements for the various steps in the dispute resolution process, the other Party may refer the dispute to the DRB.
- c. Parties are to agree on attendees at hearings, or if they cannot agree, submit to the DRB for a final determination.
- d. A statement of overall objective of the hearing, and a requirement that the DRB exercise control.
- e. Provides the flexibility for additional hearing days if necessary for full understanding of the dispute.
- f. Permits the DRB to allow introduction of new information at hearings that had not previously been submitted, subject to the other Party getting additional time to review and rebut.
- g. Allows for the use of outside experts by the DRB, and provides requirements therefor.
- h. Failure of a Party to respond to a DRB recommendation with the specified time is deemed acceptance.

6. **Pre-Hearing Submittals:**

- a. The Manual allows for the submittal of rebuttals if requested by both Parties. ConsensusDocs allows rebuttals only as approved by the DRB chair.

7. **Attorney Participation at Hearings:**

- a. The Manual allows attorney attendance at hearings subject to permission of the other Party, and provides a list of what attorneys are not allowed to do. ConsensusDocs simply prohibits attorney participation without consent of the other Party and the DRB.

8. **Time Limits:**

- a. The Manual states that upon request the DRB will provide written clarification or a response to a reconsideration request within a reasonable period of time. ConsensusDocs specifies these periods as 14 days.
- b. The Manual specifies that the Parties agree to accept or reject a DRB recommendation within 30 days. ConsensusDocs specifies this period as 14 days.

9. **Reconsideration**

- a. The Manual allows reconsideration if the “DRB misunderstood or failed to consider material and significant facts”. ConsensusDocs does not include this as a reason to allow reconsideration.

Submitted by Bill Edgerton, a member of the DRBF Manual Committee. He can be reached by email at edgerton@jacobssf.com.



DRBF Annual Meeting & Conference Makes a Splash in Miami Beach

The DRBF's 2013 Annual Meeting & Conference offered fresh and engaging content and took the DRBF to new horizons beyond the traditional subjects of discussion. It was exhilarating and fun to share ideas and renew friendships under the warmth of the Miami Beach sun at the beautiful and well-located James Royal Palm Hotel.

Leading into the conference on Wednesday was the DRBF's first ever Golf Challenge (USA vs the World). Organized by former DRBF President Gwyn Owen, it was a resounding success; everyone who participated either as a golfer or as a spectator appreciated the camaraderie and just plain fun of the event. On Saturday morning, attendees and their guests had the opportunity to gently start the day with a relaxing Sunrise Stretch and refreshing power smoothies with beautiful views of the ocean.

The conference was preceded by three separate training workshops: the DRB Administration & Practice Workshop, which provided basic skills training for people interested in using DRBs on all types of projects; the DRB Advanced/Chairing Workshop, which addressed the issues involved in chairing DRBs and is for practitioners interested in or serving as DRB chairs; and Introduction to International Dispute Board Practice, which focused on international Dispute Board practice under FIDIC forms of contract and ICC Dispute Board rules.

The welcome cocktail and the Al Mathews Awards dinner, overlooking the Miami and Miami Beach skylines, offered informal networking and social opportunities to connect with other members of our dispute resolution community.

The conference sessions struck a balance between new developments in the Dispute Board process, and practical pointers for DB members to use when serving on Boards. The conference sessions were informative, engaging and thought provoking,

starting with the keynote address by Brian Blanchard, Assistant Secretary of the Florida Department of Transportation, followed by "Lessons Learned: Successes and Failures from Real DRB Projects," by Harvey Kirsh. A transportation panel chaired by Eric Kerness included: Marc Gambrill, Broward County, Florida Aviation Department; Tom Byron, Florida Department of Transportation; Bob Burlson, Florida Transportation Association; and Dan Beasley, Ohio Department of Transportation, who discussed their agencies' use of DRBs. Gwyn Owen and Bob Rubin delivered a "Case Study: Hydroelectric Project." Monica Effico of the Panama Canal Authority presented data on the ongoing canal project and Joe Folco, Bouygues Civil Works Florida showed the details of the construction process of the Port of Miami Tunnel, a PPP project.

Our ethics panel of Roger Brown, Chris Miers, and Bob Rubin, and chaired by Jim Phillips, University of Virginia, presented "To Disclose or Not to Disclose – That is the Question." Kurt Dettman and Eric Kerness lead our "Networking Toolkit" workshop, and Sergio Aranda lead a panel discussion by David Martinez and Richard Polemeni on "The Sky is the Limit: OPMIS - Turning to the Cloud for Dispute Avoidance and Resolution." Adrian Bastianelli lead a discussion by James Moye, Warren Bullock, and Jerry Brodsky on "Bridging the Gap: Is there a happy medium between 'no lawyers' vs. 'all lawyers'?" Rebecca Storrow, Vice President of the American Arbitration Association, closed the day with "10 Tips For Getting Difficult People Talking."

On Saturday we learned about DRB use in Brazil and in Central America from Gilberto Vaz and Jerry Brodsky, and about DRB use in Australia and in Canada from inxominf DRBF President Graham Easton and Gerald McEniry, DRBF Region 1 Board Member. Robert Wax chaired a panel discussion on "The Future of Dispute Boards in the Power Industry" as seen by Duncan McKay, Fred



Lyon and Dr. Patricia Galloway. Last but not least, Robert Cedeno, President of the Florida Chapter of the DRBF lead a discussion, “A Case for Proactive DRBs,” by Gregory Martin and Allen Thompson.

Saturday afternoon was filled with a tour of the Port of Miami Tunnel courtesy of Bouygues Civil Works Florida, a meeting on Florida DRBs, an interactive workshop offered by Kathleen Lawrence on “Managing Difficult People: A Communications Skills Seminar,” and a workshop lead by Gwyn Owen and Volker Jurowich, both past Presidents of the DRBF, on “How to Get Work in Latin America” for DRB practitioners.

The conference materials can be accessed online at www.drbconferences.org. If you would like to contact any of the speakers to continue the discussion, please let me know, and contact details are included in the attendee list published on the website.

Attendees certainly left the conference with a renewed enthusiasm for the Dispute Board process. My sincere and deepest thanks to each of the speakers, who devoted countless hours toward delivering the high quality material they created, which made this event the unqualified success that it was. I also would be remiss if I failed to acknowledge the contributions of the Conference Planning Committee: Roger Brown, Eric Kerness, Amy Phillips, Suzanne Harness, Robert Cedeno, Don Henderson, Kurt Dettman, Pete Douglas, Hal McKittrick, Steve Fox, and the sponsors (noted in the sidebar), and most of all to the tireless efforts of DRBF’s General Manager Ann McGough, without whose support the event could not have occurred at all.

Hope to see you all in Singapore in May and in Toronto in October.

Travel safe,
Deborah Bovarnick Mastin
Conference Chair, Past President, Region 1

Save the Date!
DRBF Annual Meeting & Conference
October 23-25, 2014
Sheraton Centre Hotel • Toronto, Canada

The **DRBF 18th Annual Meeting and Conference** will integrate practical experience shared by users of the DRB process with in-depth analysis of this evolving dispute resolution process. With an emphasis on the DRB’s unique role in dispute avoidance as well as resolution, conference delegates will explore ethical and legal issues, lessons learned from existing DRB programs, and future expansion of the process. Participants will also engage in interactive discussions that deepen understanding of the successful implementation and use of Dispute Boards worldwide.

October 23 will be a full day of workshops, and the two-day conference is October 24 & 25, with the popular Al Mathews Awards dinner on the evening of October 24. Mark your calendar and plan to join us!

DRBF Golf Challenge: US vs. The World



Gwyn Owen
Chair
Golf Challenge
Committee

During the Annual Meeting & Conference in Miami, the DRBF held its first Golf Challenge. Two teams ventured out early in the morning to Crandon Golf in Key Biscayne and the journey to the first DRBF President's Cup began. The two participating teams also played for the honour of winning the US vs the World championship (memories of the US' not so great performance at the recent Ryder Cup and Solheim Cup were put to one side on the day).

The players were all out to enjoy themselves and the highest standard achieved was probably measured by the one who lost the least number of balls on a challenging course that seemingly had water at every turn. Not many alligators were seen out on the course but Key Biscayne indeed has its fair share of wildlife - much of which came out to greet our intrepid golfers on the day.

The teams made up of players from all over the DRBF world were supported by our president Graham Easton and Mary Owen who followed the game on a golf cart and cheered and provided moral support where needed. The Crandon course was in fine condition and the game took the form of a Texas Scramble with much hilarity and cheering throughout. Some said that the cheering was a form of diversion to put the opposing team at a disadvantage, or even to cover over the "very high standard" of play. Who knows? However all players seemed to

be in the high spirit of the Florida sunshine.

At the end of play and accompanied by Deborah Mastin we all had lunch at the clubhouse where the scores were totted up and by a very narrow margin the 'Rest of the World' team carried the day. It was noted however that the US team did not sign their scorecard. In view of extreme pressure from Roger Brown (Captain of the US team) and due to the clear match result this small incident was overlooked on this occasion.

As far as the individual results were concerned the scoring system was relaxed and tailored to the Texas Scramble form of play together with a measure of how much of a contribution each player made to their team. It has to be said that all individual scores were very close despite the varied experience across the teams.

The winners were recognised at the Al Mathews Awards Dinner with prizes presented by DRBF President Graham Easton. The winner of the day and the recipient of the first DRBF President's Cup was Jimmy Lairscey from Florida (local knowledge?). Second place went to Ann McGough and third place to Frank Proch.

The teams were: US: Roger Brown (captain), Ann McGough, Jim Phillips and Harold McKittrick; Rest of the World: Gwyn Owen (captain), Sanjeev Migliani, Frank Proch and Jimmy Lairscey (note that Florida was considered to be outside the US and part of the Rest of the World for the day). Roll on the next Golf Challenge!!



Volker Jurowich Receives Al Mathews Award of Excellence

The Dispute Resolution Board Foundation presents the prestigious Al Mathews Award each year to one or more DRBF members who have given exemplary service in advancing the use of the Dispute Resolution Board concepts and the DRBF. Nominations are solicited from DRBF membership and by the president of the Executive Board of Directors. The award is presented at the Gala Dinner hosted in conjunction with the DRBF Annual Meeting and Conference, held this year in Miami, Florida.

Congratulations to this year's recipient, Volker Jurowich. His proclamation reads:

A past president of the DRBF Executive Board of Directors, Volker Jurowich has been proactive on a global scale in the alternative dispute resolution process. He has been instrumental in the establishment of Dispute Boards on major projects throughout the world, including those in such regions as Latin America, Africa, and in China. He has also encouraged and fostered the use of Dispute Boards by Chinese corporations when working outside China and has served on the ICC task force for Dispute Boards.

Volker is a German national educated in both Germany and the UK, speaking German, English, and Spanish. During his distinguished career he worked on major international projects including Tarbela in Pakistan and Kamburu in Kenya. He became director of overseas operations of the major international contractor Ed Zublin before becoming one of its executive directors.

Thereafter Volker became Chairman of the Assessment Panel for the German National List of FIDIC Adjudicators, a



Member of the German National Committee on Dams, and a FIDIC President listed Adjudicator. He is also a registered Arbitrator at the Beijing Arbitration Commission in China. Volker is a lecturer at the University of Stuttgart on international construction and a regular international traveler promoting the Dispute Board concept. He has participated in conferences throughout the world promoting the use of Dispute Boards and has been directly involved in the establishment and running of such boards in many regions and countries including South Africa, Ecuador, Sudan, Iraq, and China.

Volker is a worthy recipient of the Al Mathews Award and is a credit to the DRBF which he has served tirelessly over the years throughout the world.



The distinguished list of past winners of the Al Mathews Award include:

Al Mathews
 Robert Matyas
 Robert Smith
 Joe Sperry
 Jimmy Lairscey
 Carlos Ospina
 Pete Douglass
 Jim Donaldson
 Stephen Fox
 Gordon L. Jaynes
 John Nichols
 Peter H.J. Chapman
 William Baker
 Romano Allione
 Harold V. McKittrick
 Jack Feller
 Richard Appuhn
 Gwyn Owen
 Robert Rubin
 Graeme M. Peck
 James Brady
 Toshihiko Omoto

Welcome to New DRBF Members

Member Additions September 2013 - November 2013

**Do you know
someone
interested in
joining
the DRBF?**

Help us expand by sharing information with your colleagues. Complete membership information can be found on the DRBF web site (www.drbf.org) or contact the main office for details.

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Aguilar
Coronado Figueroa y
Asociados, S.C.
Guadalajara, Jalisco
MEXICO

Antonio Carlos Do
Amaral Maia
Amaral Maia Sociedade
de Advogados
Sao Paulo, BRAZIL

Tony Ashford
Port Elizabeth,
SOUTH AFRICA

Belinda Bacon
Belinda Bacon, PA
Miami, FL USA

Frank Baltz
Clark Construction Group
Bethesda, MD USA

Sarah B. Biser
McCarter & English LLP
New York, NY USA

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Peckar & Abramson
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Geoff Burrett &
Associates
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David Forrest
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Dural, NSW AUSTRALIA

Olfa Hamdi
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Harris & Associates
Fallbrook, CA USA

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Construction and Con-
tract Services Pty Ltd
Crows Nest, NSW
AUSTRALIA

Caren Yglesias PhD
Architect Caren Yglesias
AIA
Washington, DC USA



DRBF 14th Annual International Conference
Dispute Boards: Realising the Potential
for Dispute Avoidance
May 15 - 17, 2014
Fullerton Hotel - Singapore

The DRBF's annual International Conference attracts the top Dispute Board practitioners, employers, funding institutions, contractors, legal professionals and consultants all active in alternative dispute resolution. In 2014, the conference will be hosted for the first time in Asia, in Singapore. Day one offers full-day interactive training, with an introductory level workshop for those new to the process, and an advanced level workshop for experienced Dispute Board practitioners. The two-day conference features engaging presentations and lively panel discussions about the latest developments and issues facing the alternative dispute resolution community worldwide. Case studies, insight from the international financing institutions, and cost benefit analysis will be presented, along with insight on the future prospects for expanding the Dispute Board process in Southeastern Asia and beyond.

- ➔ **May 15 Dispute Board Workshops** - A full-day introductory workshop or practical case study workshop for advanced practitioners. Earn CPD credits!
- ➔ **May 16 & 17 International Conference** - Presentations and panel discussions.
- ➔ **May 16 Gala Dinner** - Enjoy socializing with conference delegates, speakers and guests at the popular Gala Dinner, with spectacular views of Marina Bay.

The workshop and conference will be held at The Fullerton Hotel Singapore, once home to the General Post Office, The Singapore Club and the Chamber of Commerce. Located in the heart of the financial and arts districts, the hotel successfully blends rich heritage with contemporary style and personalised service to offer a world-class accommodation experience. A limited number of rooms have been blocked for out-of-town delegates at discounted rates, and early reservations are highly recommended.

Visit www.drb.org for details



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Dispute Resolution Board Foundation
19550 International Blvd. So. Suite 314
Seattle, WA 98188 USA

DRBF Regional Conference & Workshop

Effective Dispute Resolution in Construction

27-28 February 2014 • Johannesburg, South Africa

Following on from the successful international conference held in Cape Town, South Africa in 2008, the Regional Conference and Workshop in Johannesburg will explore the use of contemporary DBs in Southern Africa through a process of presentations, panel discussion and delegate participation. The results will serve as direction to DB users and practitioners. The conference will also cover a historical perspective on dispute resolution in Southern Africa and guidance on successfully establishing and operating a DB. International and local industry DB users and practitioners will share their views and there will be opportunity to network. The half day workshop for advanced users and practitioners on Day 2 will deal in some depth with the dispute avoidance role of DBs and also DB procedures in practice.

Event Details:

February 27: Conference

- ➔ Morning session - dispute resolution in Southern Africa and keys to successful DB programs.
- ➔ Afternoon session - local and international views and a panel discussion on fundamentals of DBs and the achievement of objectives in Southern Africa.

February 28: Half-day Workshop

- ➔ First Part - dispute avoidance role of Dispute Boards; intent and practice
- ➔ Second Part - DB procedures in practice

**Visit www.drb.org for
complete event details
and registration.**