

INTI INTERNATIONAL UNIVERSITY

**DETERMINATION OF THE SUITABLE
ALTERNATIVE DISPUTE RESOLUTION METHOD
FOR THE CONSTRUCTION INDUSTRY PLAYERS
IN MALAYSIA**

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FOR REFERENCE ONLY

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ABSTRACT

Determination of the suitable Alternative Dispute Resolution Method for the Construction Industry Players in Malaysia

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Disputes always occur and are hard to be avoided in the Malaysia construction industry through all these years. Disputes can happen anytime from pre contract until post contract, payment issues, issues regard workmanship, architect instructions are the common factors that lead to dispute in the Malaysia construction industry. When dispute occurs, different approach of dispute resolution will be adapted to solve or reduce the disputes. There are two main categories of dispute resolution method available for the industry; one is the traditional dispute resolution method (TDR) and alternative resolution method (ADR), the TDR are methods that are famous and commonly use in the industry all these years, will the ADR is method that are develop to redress the shortage of the TDR and provide a alternate means to solve disputes. The objectives of this research are to address the gap of the Traditional Dispute Resolution Methods in Malaysia and to identity their problems and to study on different kinds of dispute resolution method and the pros and cons. The main finding of this research is to determine the suitable types of dispute resolution method the industry players preferred to be adapted, based on the nature and culture of the Malaysia construction industry. The findings will be obtained from analysis based on in-depth interview (qualitative research method) conducted with the Malaysia construction experts like the quantity surveyors, engineer, and arbitrators/mediators. This is a helpful research which help to analyse the different ADR method and to determine the better ADR used in Malaysia, which help to reduce resolution time, solve dispute as fast as possible, and to spell out which ADR method is suitable for which type of dispute.

Keywords: Construction, dispute resolution, traditional dispute resolution method, alternative dispute resolution method, pros and cons, suitable types of dispute resolution method

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DECLARATION

I declare that this project is entirely my own work except where due references are made



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CHAPTER 1

INTRODUCTION

1.0 Overview

The competitive and high risk nature of the Malaysia Construction industry which the country is stills a developing country. The construction industry involved from both small from big scale projects as well as different projects. Also, it is also impossible for a particular project to be finish without any disagreement or dispute which involves the contractual parties in the project. There will be dispute, normally the disputes is caused by late payment from the client to the contractor, or from the contractor to the sub-contractor, disputes also cause from the delay of the project work from the original plan, disagreement between design and cost concentration, material ordered as well as quality of the work which is not in accordance to specification. Dispute usually starts with one party interest, where the parties cannot solve and manage their interest well, conflicts occurs. The factors which dispute in construction always occurs in the construction industry is because of delay in works (EOT), variation, quality of technical specification, lack of administration and management, lack of information, unrealistic client demand. Dispute often occurs to which the contractual party disagree with each other, unorganized and unplanned in the project, which result in additional work beyond actual plan or expectation, According to Kumaraswamy and Yogeswaran (1998), extra work will result in more claims by the contractor, and the client or architect will not be entertaining such claims for additional, both parties defend their rights and result in dispute. Bringing such mattes to the court for resolution is not encouraged by the industry parties, since it will take a long time to resolve such dispute in court, and the matters will go on