

Half-Day Seminar on “IEM Arbitration Rules 2012” and the Half-Day Seminar on “Contractual and Statutory Adjudication: Understanding the Main Differences”



by Ir. Dr. Ooi Teik Aun

SUB-COMMITTEE ON DISPUTE RESOLUTION PRACTICE

UNDER the Standing Committee on Professional Practice, IEM, the Sub-committee on Dispute Resolution Practice successfully organised two half-day seminars – one on “IEM Arbitration Rules 2012” and the other on “Contractual And Statutory Adjudication: Understanding The Main Differences”.

These were held on two Saturdays, 5 January 2013 and 12 January 2013 respectively at the Tan Sri Prof. Chin Fung Kee Auditorium, Wisma IEM, Petaling Jaya, Selangor. The speaker at the seminar was Ir. C.K. Khoo, a Chartered Arbitrator, Fellow and past Vice President of IEM. Each seminars garnered more than 90 participants.

The objective of the first seminar was primarily for participants to get an overview of the new IEM Arbitration Rules (2012). The previous IEM Arbitration Rules 2003 had been in use since November 2003. Since then the Arbitration Act 2005 was enacted and became effective on 15 March 2006, superseding its preceding Act of 1952.

The IEM Rules (2012) is a revised version of Rules (2003), ammended to improve upon the 2003 Rules with the objective of savings in time and cost of the arbitral proceedings, as well as to conform to the 2005 Act. Revision was made to 7 (seven) of the 2003 Rules.

At the seminar, participants were briefed on each of the revised rules and the reasons for such revisions. The presentation was interactive and each participant was given a copy of the 2003 Rules together with the amendments as reference documents.

The seminar on “Contractual And Statutory Adjudication: Understanding The Main Differences” was to explore the main differences and give a general understanding of how the two systems of “adjudication”, namely contractual and statutory adjudication operate.

In 1999, FIDIC introduced contractual “Adjudication” in its “red book”, i.e. “Conditions Of Contract For Construction For Building And Engineering Works Designed By The Employer”.

In the same year such contractual “adjudication” was also introduced in other FIDIC forms of contract, viz, the yellow, silver and green books.

Statutory “adjudication” was introduced in several Commonwealth countries and States of Australia, viz. UK (1996), New Zealand (2002) and Singapore (2004) and in Australia: New South Wales (1999), Victoria (2002) and Queensland (2004).

In 2012, the Construction Industry Payment and Adjudication Act (CIPAA) was passed by Parliament in Malaysia and gazetted as Law on 22 June 2012.

There are significant differences between contractual “adjudication” (as prescribed in the provisions and practices in FIDIC) and the statutory provisions under CIPAA. The seminar has given an opportunity for The Institution to brief participants on the two systems. ■



Participants in the auditorium



Ir. C.K. Khoo delivering his presentation



Token of appreciation to Ir. C.K. Khoo

Ir. Dr Ooi Teck Aun graduated in Civil Engineering in 1966 from Auckland University, New Zealand and obtained his Master's degree from the same University in 1968. He obtained his PhD from Sheffield University in 1980. He is a Hon. Fellow of The Institution of Engineers, Malaysia (Hon. FIEM), Fellow of The Malaysian Institute of Arbitrators (FMIArb) and Member of The Institution of Civil Engineers, United Kingdom (MICE). He is an ASEAN Engineer, APEC Engineer, International Professional Engineer, ASEAN Chartered Professional Engineer, Professional Engineer (Malaysia), Accredited Checker (Geotechnical) and Chartered Engineer (C.Eng.), United Kingdom. He is a Practising Specialist Engineering Consultant, an Arbitrator, an Accredited Checker and Expert Witness and current President of the Southeast Asian Geotechnical Society.