Writing a Structured Abstract: Guidance and Examples

1. Guidance

To produce a structured abstract for the *International Journal of Law in the Built Environment*, and for the Emerald database, please complete the following fields about your paper. There are six fields which are obligatory* (Purpose, Design/methodology/approach, Findings and Originality/value, Keywords, Paper Type); the other three (Research limitations/implications, Practical implications and Social Implications) may be omitted if they are not applicable to your paper.

Abstracts should contain no more than 250 words. Write concisely and clearly using complete sentences (not fragments). The abstract should reflect only what appears in the original paper.

Purpose* **-** What are the reason(s) for writing the paper or the aims of the research? Please note that Emerald requires this section to begin with wording such as 'The purpose of this paper….' or 'This paper aims to….'

Design/methodology/approach* **-** How are the objectives achieved? Include the main method(s) used for the research. What is the approach to the topic and what is the theoretical or subject scope of the paper?

Findings* **-** What was found in the course of the work? This will refer to analysis, discussion, or results.

Research limitations/implications (if applicable) - If research is reported on in the paper this section must be completed and should include suggestions for future research and any identified limitations in the research process.

Practical implications (if applicable) - What outcomes and implications for practice, applications and consequences are identified? Not all papers will have practical implications but most will. What changes to practice should be made as a result of this research/paper?

Social implications (if applicable) - What will be the impact on society of this research? How will it influence public attitudes? How will it influence (corporate) social responsibility or environmental issues? How could it inform public or industry policy? How might it affect quality of life? Not all papers will have social implications.

Originality/value* **-** What is new in the paper? State the value of the paper and to whom.

Keywords* - Keywords are a vital part of the abstract because of the practice of retrieving information electronically. Keywords act as the search term. Select keywords that are specific, and that reflect what is essential about the paper. Put yourself in the position of someone researching in your field: what would you look for?

Paper Type* - Select the category from the seven listed below which most closely describes your paper. The categories relate to papers in all disciplines served by Emerald journals and are not confined to law papers. Some papers can potentially fit into more than one category but it is necessary to assign your paper to one single category for the purposes of database searches. Please contact Paul Chynoweth, the editor, if you require further guidance on the selection of the correct category for your paper. The categories are:

- **Research paper**. This category covers papers which report on any type of research undertaken by the author(s). The research may involve the construction or testing of a model or framework, action research, testing of data, market research or surveys, empirical, scientific or clinical research.

- **Viewpoint**. Any paper, where content is dependent on the author's opinion and interpretation, should be included in this category; this also includes journalistic pieces.

- **Technical paper**. Describes and evaluates technical products, processes or services.

- **Conceptual paper**. These papers will not be based on research but will develop hypotheses. The papers are likely to be discursive and will cover philosophical discussions and comparative studies of others' work and thinking.

- **Case study**. Case studies describe actual interventions or experiences within organizations. They may well be subjective and will not generally report on research. A description of a legal case or a hypothetical case study used as a teaching exercise would also fit into this category.

- **Literature review**. It is expected that all types of paper cite any relevant literature so this category should only be used if the main purpose of the paper is to annotate and/or critique the literature in a particular subject area. It may be a selective bibliography providing advice on information sources or it may be comprehensive in that the paper's aim is to cover the main contributors to the development of a topic and explore their different views.

- **General review**. This category covers those papers which provide an overview or historical examination of some concept, technique or phenomenon. The papers are likely to be more descriptive or instructional ("how to" papers) than discursive.

2. Examples

Please see remaining pages of this document.

Property rights: achieving a fine balance in collective sales of strata developments in Singapore

Alice Christudason
Department of Real Estate, School of Design and Environment, National University of Singapore, Singapore

Abstract

Purpose – In the light of the property relativist theory, the purpose of this paper is to review the impact of radical amendments to strata legislation in Singapore in 1999 which, together with changes to the planning framework, stimulated private-sector led redevelopment in Singapore. This was achieved through the introduction of majority rule (rather than unanimity) in collective sales (CS) of strata developments. The paper also addresses the issue of how a balance can be achieved between the property rights of majority and minority strata owners.

Design/methodology/approach – The paper uses case-studies, planning provisions, and data on property transactions to analyse the effectiveness of the measures taken to address Singapore's land-scarcity problem. Legal terms and their significance are addressed in a manner that will also be comprehensible to a non-legally trained readership.

Findings – The cases demonstrate attempts by the authorities to clarify, and to provide a better balance to, the position of those whose property rights had been sacrificed at the altar of redevelopment and urban rejuvenation in Singapore. Nevertheless, there still remain numerous pockets of resistance to CS. These still need to be addressed to reassure the minority in the context of the property relativist theory.

Research limitations/implications – The continued groundswell of protests against collective sale means that there are further issues that need to be addressed to mitigate the plight of the minority. The response of parliament has been reactive, but it remains to be seen whether the minority's concerns have been adequately addressed.

Originality/value – The analysis of the cases, whose decisions turned on the authorities' interpretation of the controversial legislation, is instructive. These can provide valuable pointers for policy makers in other jurisdictions contemplating urban rejuvenation. The twin issues that are dealt with relate to how private-sector redevelopment can be incentivised through planning measures, without riding roughshod over individuals' private property rights.

Keywords Property rights, Democracy, Redevelopment, Laws and legislation, Singapore

Paper type Case study

Introduction and background

Property rights

As an ex-British colony, Singapore adopted the common law system and with it, English principles of land law. By virtue of the Second Charter of Justice 1826, English statutes in force as at 26 November 1826, and the principles of common law and equity were received as part of the law of Singapore[1].

A fundamental concept of English land law is the existence of multiple interests in land. Hence, the theory that a person owns a "bundle of rights" in the land, rather than possessing "absolute" ownership thereof. Instead of defining the relationship between a person and "his" (or her) things, property law considers the "way [in which] rights to

International Journal of Law in the Built Environment
Vol. 1 No. 1, 2009
pp. 26-41

1756-1450
DOI 10.1108/17561450910950232

The current issue and full text archive of this journal is available at
www.emeraldinsight.com/1756-1450.htm

Follow-up empirical study of the performance of the New South Wales construction industry security of payment legislation

Michael Charles Brand and Thomas Uher
The University of New South Wales, Sydney, Australia

Abstract

Purpose – The purpose of this paper is to report on findings of follow-up research into the performance of the Building and Construction Industry Security of Payment Act 1999 (NSW), which was undertaken in 2007. The research aims to re-assess the performance of the Act in the light of strong demand for adjudication of construction payment claims in New South Wales.

Design/methodology/approach – A cross-sectional survey of member firms of The Master Plumbers & Mechanical Contractors Association of NSW and the National Electrical & Communications Association (NSW Chapter) was undertaken using a comprehensive multiple-choice questionnaire administered by post. The questionnaire comprised 23 questions, whereby all but one question was of a multiple-choice type. In answering the questions, the sampled claimants were required to draw on their understanding of the Act, and their experience with the adjudication process. Results were compared with a pilot study undertaken by the authors in 2004.

Findings – The results indicate that the object of the Act is generally being achieved. Whilst the culture of making late payments remains well entrenched in the construction industry, there appears to be a modest downward trend in the frequency of late payments since the 2004 study. It is now reasonably certain that the act of endorsing payment claims encourages communication between the parties, thus providing an opportunity for early dispute avoidance or resolution. However, the level of knowledge of the Act amongst subcontracting organisations overall has not improved since 2004 study, and may have even declined. It is clear that contractors and subcontractors are not taking full advantage of the Act.

Originality/value – The paper provides evidence of the performance of the Building and Construction Industry Security of Payment Act 1999 (NSW) between 2004 and 2007. The research compares key performance indicators for the purpose of determining whether or not the Act produces the expected result of increasing security of payment, and whether the results are consistent with the reason for the Act. It also provides important insights into the operation of similar legislation in other jurisdictions.

Keywords Payments, Laws and legislation, Construction industry, Australia

Paper type Research paper

1. Introduction

In 2004, the authors attempted to assess the performance of the Building and Construction Industry Security of Payment Act (1999) NSW ("the Act") through a survey administered to trade contractors (hereafter referred to as the "2004 study"). The data for the 2004 study were sought from a random sample of 400 members of

The authors wish to gratefully acknowledge The Master Plumbers & Mechanical Contractors Association of NSW and the National Electrical & Communications Association (NSW Chapter) for their support of this research.

International Journal of Law in the Built Environment
Vol. 2 No. 1, 2010
pp. 7-25

1756-1450
DOI 10.1108/17561451011036496

Housing and security in England and Wales: casualisation revisited

Jill Morgan
School of Law, Swansea University, Swansea, UK

Abstract

Purpose – The purpose of this paper is to use the notion of "casualisation" in an employment context to reflect on similar developments in England and Wales since 1996 which have combined to undermine security of tenure in the private and social rented sectors and exposed the vulnerability of owner occupiers who default on mortgage repayments.

Design/methodology/approach – The paper draws on observations made by commentators in housing and social policy as well as official papers, statutes and cases.

Findings – The problems posed for the long-term security of residential occupiers are highlighted and are shown to result from a combination of factors including the deregulation of the private rented sector, the dependency of housing association on their rental streams, governmental preoccupation with anti-social behaviour in social housing and the principle that mortgage lenders have the right to possession of the mortgaged property.

Originality/value – The notion of casualisation is used as an analytical tool to assess changes in law and policy, and to suggest possibilities for reform.

Keywords Housing, Legislation, Mortgage default, England, Wales

Paper type General review

Introduction

In 1996, the author published an article in which the growing insecurity in housing in England and Wales was likened to the process of casualisation in employment (Morgan, 1996). Casual work is generally associated with temporary work and the casual workforce is dominated by the weakest members of the labour market, earning low pay, working in inferior conditions and living in areas with very high levels of unemployment (Deakin and Wilkinson, 1991). The author's argument was that a similar process was operative in housing: the Housing Acts 1988 and 1996 had drastically curtailed security of tenure and rights of succession in relation to private sector tenancies; quasi-private housing associations had been ear-marked by government to replace local authorities as the main providers of social housing; the homelessness legislation had been amended so as to close off the homelessness route into long-term social housing; and even home ownership seemed to have become more precarious than in previous decades. Opportunities to access what was arguably the most secure tenure – council housing – had been curbed by the exercise by hundreds of thousands of tenants of their right to buy and the virtual cessation of council house building. The main casualties in the casualisation of housing were those who were unable to buy themselves long-term security.

Now, 13 years later, it seems a good time to reflect on the extent to which the casualisation analogy is relevant today. Most of that period has been spent under a New Labour Government whose promise to "bring rights home" (Home Office, 1997)

International Journal of Law in the Built Environment
Vol. 1 No. 1, 2009
pp. 42-58

1756-1450
DOI 10.1108/17561450910950241

Ethics in the construction industry: the prospects for a single professional code

Jim Mason
University of the West of England, Bristol, UK

Abstract

Purpose – The purpose of this paper is to consider the potential for generating improved levels of ethical conduct within the construction industry through the introduction of a single industry-wide professional code.

Design/methodology/approach – The Society of Construction Law's *Statement of Ethical Principles* (the Code) is used as a model. The paper consists of a detailed critical analysis of the Code which it places within the context of previous studies, internationally, on the role of unethical conduct within the industry, and of the role that criminal sanctions can play in addressing this.

Findings – The paper concludes that a single industry-wide code has a contribution to make in improving the ethical standards of conduct within the industry. However, ethical improvement can ultimately only be delivered by reducing the numbers of situations where industry participants consider it necessary to seek an advantage at someone else's expense. Other measures – in particular an increase in the incidence of longer term relationships and collaborative working – are also likely to play an equally important role.

Originality/value – The paper provides a new interpretation of existing sources on business and professional ethics and offers new insights into the topic area by emphasising its relationship with collaborative working.

Keywords Construction industry, United Kingdom, Professional ethics

Paper type Viewpoint

Introduction

Ethics and professionalism

Ethics is defined in the Oxford English Dictionary as comprising the moral principles by which a person is guided. In the context of the behaviour of professionals, the same source expands its definition to include the duties owed to the public, to each other, and to themselves in regard to the exercise of their profession. This could be described as "doing the right thing" and, in a construction context, ethical behaviour might be measured by the degree of trustworthiness and integrity with which companies and individuals conduct their business.

The core of professionalism has been described (Greenhalgh, 1997) as the possession and autonomous control of a body of specialised knowledge which, when combined with honorific status, confers power upon its holders. The exercise of this control by the respective professional bodies is often manifested in the promotion and enforcement of an ethical code. There are many examples of this within the construction industry, typified by the approach contained within the Royal Institute of Chartered Surveyors' (2007) *Rules of Conduct for Members*. There has been much debate on whether some professionals are "more ethical" than others (Fan *et al.*, 2001). The analysis suggests that the closer a professional is to the harsh realities of business,

International Journal of Law in the Built Environment
Vol. 1 No. 3, 2009
pp. 194-204

1756-1450
DOI 10.1108/17561450911001252

The New South Wales strata and Community Titles Acts

A case study of legislatively created high rise and master planned communities

Cathy Sherry
Faculty of Law, University of New South Wales, Sydney, Australia

Abstract

Purpose – The purpose of this paper is to present a case study of the legislative creation of high rise and master planned communities to provide a common basis for future discussions, research and international comparison in the field.

Design/methodology/approach – The case study addresses relevant legislation in the Australian state of New South Wales. This has been a model for that in other jurisdictions, including Singapore, the UK and the Dubai International Financial Centre. The legal terms and their significance are discussed in a way that is comprehensible to both lawyers and non-lawyers.

Findings – The legislation is shown to have achieved a range of outcomes that are not possible in ordinary Anglo-Australian property law. For example, it has created governing "bodies corporate" which regulate communities with private by-laws and facilitates the continued enforcement of detailed architectural guidelines imposing a master plan.

Research limitations/implications – The research describes the legal framework for the creation of communities in a single jurisdiction. More research is needed on the specific way that legal structures hinder or promote satisfactory community living in this and in other jurisdictions.

Originality/value – The paper will aid discussions between a range of academics and practitioners working on high rise and master planned communities. It will assist communication between lawyers and non-lawyers, providing a clear description of the significance of legislation in the creation of communities. It will facilitate transnational discussion, as differences in legal systems and inconsistent terminology are a barrier to effective communication and common understanding.

Keywords Australia, Legal title, Community development, Legislation, Architecture

Paper type Case study

Introduction

Significance

High-rise buildings and master planned communities[1] have become an increasingly dominant form of new housing in Australia. There has been a corresponding increase in academic interest in these kinds of development, although the body of legal writing is still small (Everton-Moore *et al.*, 2006; Christensen and Wallace, 2006; Sherry, 2006, 2008, 2009; Ilkin, 2007). This is a significant gap in research, as legal form is a fundamental aspect of high rise and master planned communities and it is difficult to

[1] The term master planned estate or community is used in this paper to refer to medium to large-scale residential developments with an overarching physical plan. They are typically the work of a single private developer, are architecturally uniform and may incorporate services or recreational facilities for the residents. They may or may not have a governance structure and in Australia, they are rarely gated.

International Journal of Law in the Built Environment
Vol. 1 No. 2, 2009
pp. 130-142

1756-1450
DOI 10.1108/17561450910974731

The current issue and full text archive of this journal is available at
www.emeraldinsight.com/1756-1450.htm

International comparative analysis of building regulations: an analytical tool

Jeroen van der Heijden
OTB Research Institute for Housing, Urban, and Mobility Studies, Delft University of Technology, Delft, The Netherlands

Abstract

Purpose – The purpose of this paper is to introduce a tool for the international comparative analysis of regulatory regimes in the field of building regulation.

Design/methodology/approach – On the basis of a heuristic model drawn from regulatory literature, a typology of building regulatory regimes is introduced. Each type is illustrated with a number of real-life examples from North America, Europe, and Australia.

Findings – Governments worldwide have introduced building regulatory regimes with a variety of designs. On an abstract level, these designs are shown to have a comparable pattern. This pattern is utilised to draw up a typology of regime-designs that can be placed on a sliding scale, with a "pure public regime" at the one end and a "pure private regime" at the other. Intermediate regimes display characteristics of both.

Originality/value – The comparative analysis of different regimes assists policy makers by demonstrating which combinations of regulatory characteristics can provide the best results in particular instances. The typology introduced by the paper assists this process by providing a tool for systematic analysis of complex real-life cases.

Keywords Buildings, Technical regulations, Specifications

Paper type Conceptual paper

Introduction

Contemporary building regulations in developed countries have their origins in the nineteenth century, when changes in society due to the industrial revolution provided governments with reason to become increasingly involved in the building industry (see, for instance, the development of early building regulations in England: Ash and Ash, 1899; Emden, 1885; France: Risler, 1915; the USA: Gould, 1895; and The Netherlands: Kocken, 2004; van der Heijden *et al.*, 2007). These changes included the urgent demand for housing for a growing number of immigrants, and the discovery of the relationship between insanitary conditions and public health. Since the nineteenth century, those regulations have been adapted to suit contemporary needs and, globally, current building regulations cover a broad range of topics, including

This paper is based on Chapter 4 of the doctorate thesis "Building regulatory enforcement regimes. Comparative analysis of private sector involvement in the enforcement of public building regulations." An earlier version of this paper was presented at the 2007 ENHR Conference in Rotterdam, The Netherlands. The author has discussed early drafts of this paper with André Thomsen, Jitske de Jong, Neil Gunningham, Peter May and William Baer. The author is grateful for their advice and observations. The author also wishes to thank two anonymous reviewers of this journal for their valuable comments.

International Journal of Law in the Built Environment
Vol. 1 No. 1, 2009
pp. 9-25

1756-1450
DOI 10.1108/17561450910950223

The current issue and full text archive of this journal is available at
www.emeraldinsight.com/0263-080X.htm

Progressing the rights to light debate

Part 3: judicial attitudes to current practice

Paul Chynoweth
School of the Built Environment, University of Salford, UK

Abstract

Purpose – The paper aims to examine judicial attitudes to current surveying practice in rights to light disputes. It tests the assumption that the use of the Waldram methodology is endorsed by the courts and seeks to establish whether, despite its acknowledged limitations, its continued use can be justified on this basis.

Design/methodology/approach – The paper is an analysis of reported judgments.

Findings – Neither the 50-50 rule, nor any other aspect of the Waldram methodology, has the status of a rule of law, or is otherwise approved of by the courts. On the contrary, the methodology has been the subject of judicial criticism. Although the courts frequently rely on the expert evidence presented to them, they have consistently expressed disquiet over aspects of the methodology. Particular concerns have been expressed over its inability to cater for the effects of sunlight and externally reflected light, on its dependence on internal room design, and on its failure to distinguish task illumination from general room lighting. There is also no indication that the judiciary are aware of the extent to which the Waldram threshold of adequate illuminance falls short of that prescribed by contemporary standards. The paper concludes that the courts' attitudes to the Waldram methodology cannot therefore justify its continued use by surveyors, either when acting in the capacity of expert witness, or when advising clients who may be contemplating litigation in a rights to light dispute.

Research limitations/implications – The paper makes a further contribution to the debate, started in this journal in 2000, about the future of surveying practice in rights to light disputes.

Practical implications – New information is placed in the public domain which has implications for judges in future rights to light cases, and for the professional liability of surveyors when advising clients in contemplation of possible rights to light litigation.

Originality/value – The paper presents the first comprehensive analysis of judicial attitudes to modern rights to light surveying practice since its introduction in the early part of the twentieth century.

Keywords Buildings, Law, Light, Measurement, Disputes

Paper type Research paper

Introduction

This is the third in a series of papers published in response to Pitts' (2000) call for a debate on the future of surveying practice in rights to light disputes. The first paper (Chynoweth, 2004) reviewed the methods employed by surveyors when measuring an alleged infringement of a right to light in the context of the underlying legal principles. Where a right to light exists the law was seen to provide building owners with an entitlement to "sufficient light according to the ordinary notions of mankind" and the paper also described how the courts have frequently used expert evidence from surveyors when determining the meaning of this term in particular contexts. Surveyors' evidence in rights to light cases was seen to rely on the arguments proposed by Percy Waldram and, in particular, on his central premise that the threshold of

Structural Survey
Vol. 27 No. 1, 2009
pp. 7-19

0263-080X
DOI 10.1108/02630800910941647

Defects in common property of strata developments in Singapore

Representative actions against developers

Alice Christudason
Department of Real Estate, School of Design and Environment, National University of Singapore, Singapore

Abstract

Purpose – The paper seeks to consider the basis on which a management corporation can represent original and subsequent purchasers of units in strata developments in a representative action against developers; the significance of unit owners' share values when courts award compensation; vicarious liability; and developers' use of the "independent contractor" defence in relation to its liability for defects in common property.

Design/methodology/approach – The paper analyses cases from several common law jurisdictions, with a focus on Singapore Court of Appeal decisions.

Findings – The paper highlights the problems posed as a result of the doctrine of privity in relation to management corporations' claims against developers for defects in common property; the implications of unit holders' share values; and the circumstances in which developers can avail themselves of the independent contractor defence.

Practical implications – The paper will be instructive to developers, contractors, management corporations and both original and subsequent purchasers of units in strata developments.

Originality/value – The paper brings to focus the importance of due consideration by the management corporation before it commences a representative action on behalf of the subsidiary proprietors; and also highlights procedures and/or legislation that need to be implemented, failing which there may be financial implications that can render a "successful" litigation against the developer a pyrrhic victory.

Keywords Property law, Contracts, Torts, Share values, Singapore

Paper type General review

Introduction

The Building Maintenance and Management Act[1] (BMSMA) and the Land Titles (Strata) Act[2] (LTSA) regulate the maintenance and management of strata developments in Singapore. The latter is based on the Australian (New South Wales) Conveyancing (Strata Titles) Act of 1961.

The legislation imposes responsibility for the maintenance and management of common property in a strata development on a management corporation. Thus, when there are defects in the common property of strata developments, the management corporation is responsible for effecting repair and/or rectification works. The management corporation is a legal entity comprising the unit owners, known as the subsidiary proprietors, in a strata development.

Evidence[3] reveals that in Singapore, there are a substantial number of construction-related disputes against developers relating to defects in common property. In such cases, strata legislation empowers the management corporation to

Structural Survey
Vol. 25 No. 3/4, 2007
pp. 306-318

0263-080X
DOI 10.1108/02630800710772872

An investigation of evaluative and facilitative approaches to construction mediation

Penny Brooker
School of Legal Studies, University of Wolverhampton, Wolverhampton, UK

Abstract

Purpose – The paper seeks to examine the debate on mediator style and provide empirical evidence on mediator orientation, which has implications for party choice and the development of professional standards for construction mediators in the UK.

Design/methodology/approach – This paper analyses the theoretical arguments and distinctions in mediator style and assesses the available evidence relating to the utilisation of evaluative or facilitative mediator approaches in the UK and US construction industry. The paper reports on data from qualitative interviews with construction lawyers experienced in using mediation in the UK to assess the level of evaluative conduct experienced.

Findings – The findings suggest that interviewees had experienced a mix of evaluative and facilitative interventions by mediators. The data support the contention that construction mediation in the UK mirrors the experience of the USA and is becoming "lawyer-driven" and adversarial, with mediators utilising evaluative techniques which some members of the legal profession prefer.

Research limitations/implications – The qualitative data are based on a small sample of mediation users in the UK construction industry. However, interviewees were selected from respondents to a randomly conducted large-scale postal survey of commercial and construction lawyers. All interviewees were repeat users of the process and all but one had received training in mediation or are practising lawyer-mediators.

Practical implications – The data provide evidence of different mediator techniques currently utilised in the UK construction industry and the practices of lawyers in the mediation process. The findings have implications for party choice and should inform the development of professional standards in construction mediation practice.

Originality/value – The paper provides original data on the practices of mediators and lawyers in construction mediation.

Keywords Construction industry, Alternative dispute resolution, Legal profession, United Kingdom, United States of America

Paper type Research paper

Introduction

There was a high expectation that the emphasis placed on alternative dispute resolution (ADR) in the civil justice reforms (Woolf, 1995, 1996) and the subsequent Civil Procedure Rules (CPR) would engender a change in adversarial litigation culture and increase mediation usage in the UK (Brooker and Lavers, 2000). Notwithstanding the seminal Court of Appeal decision in *Dunnett* v. *Railtrack plc* (2002) C.P. Rep. 35, whereby a cost sanction was awarded against a successful party for unreasonably refusing an offer of ADR, subsequent case law provides measured guidelines for using mediation (*Halsey* v. *Milton Keynes General NHS Trust* (2004), EWCA Civ. 576 para. 16) and, in some judicial quarters, a decline in confidence in mediation's fitness for all disputes (*Allen* v. *Jones* (2004) EWCH 1189 (QB); Grainger, 2004; Shipman, 2006;

Structural Survey
Vol. 25 No. 3/4, 2007
pp. 220-238

0263-080X
DOI 10.1108/02630800710772818

Progressing the rights to light debate

Part 2: the grumble point revisited

Paul Chynoweth
University of Salford, Salford, UK

Abstract

Purpose – The paper examines the origins of the so-called "grumble point" (a sky factor of 0.2 per cent) as the measure of daylight adequacy in rights to light disputes. It seeks to identify the rationale, and underlying scientific basis, for the adoption of this standard in the early twentieth century.

Design/methodology/approach – Analysis of archive materials.

Findings – The use of the 0.2 per cent standard does not appear to be based on empirical investigations involving human perceptions of adequate light. No evidence exists of the investigations reputedly undertaken by Percy Waldram during the early twentieth century. Waldram's own writings suggest that the standard began as a "rule of thumb" and was only later justified by reference to other independent reports. These generally do not support the use of the standard and, in any event, were soon superseded by other reports that concluded that it was too low. There is a lack of reliable evidence to justify the original adoption of the 0.2 per cent figure, and many of the assumptions underpinning modern rights to light practice are found to be based on inaccurate information.

Research limitations/implications – Continues the debate, started in this journal in 2000, about the future of surveying practice in rights to light disputes.

Practical implications – Places new information in the public domain which has implications for the professional liability of surveyors advising clients in rights to light cases.

Originality/value – Presents the first investigation into the original scientific basis for modern rights to light practice since its introduction in the early part of the twentieth century.

Keywords Buildings, Light, Measurement, Disputes

Paper type Research paper

Introduction

This is the second in a series of papers which examines the relevance of current surveying practice in rights to light disputes. The first paper (Chynoweth, 2004) described the legal basis for the right to light and reviewed the methods employed by surveyors when evaluating its infringement.

The methods employed were seen to rely on the arguments proposed by Percy Waldram in the early part of the twentieth century and, in particular, on his central premise that the threshold of adequate illumination was represented by a sky factor[1] of 0.2 per cent (the so-called "grumble point"). Based on a review of archival material, the current paper revisits Waldram's original arguments and re-examines some of the evidence on which they were based.

Waldram's underlying methods of measurement are uncontroversial. As early as 1909 he was proposing that interior daylight illumination should be expressed not as an absolute value, but as a proportion of that simultaneously available from the dome of the unobstructed sky (Waldram, 1909b, p. 135). Measurements were to be taken at

Structural Survey
Vol. 23 No. 4, 2005
pp. 251-264

0263-080X
DOI 10.1108/02630800510630439

Legal and contracting issues in electronic project administration in the construction industry

Sharon Christensen, Judith McNamara and Kathryn O'Shea
Queensland School of Law, Queensland University of Technology, Brisbane, Australia

Abstract

Purpose – The purpose of this research project is to identify the legal and security issues, risks and barriers to the uptake of communication and document management technologies by the construction industry. Previous research suggests that the construction industry, especially in Australia, has been reluctant to adopt technology on a broad scale due to a range of legal uncertainties. The purpose of this paper is to explain the relevant legal issues and risks and to suggest possible solutions for legally compliant electronic project administration in the construction industry.

Design/methodology/approach – This paper is based on research undertaken for the Australian Cooperative Research Centre for Construction Innovation (CRCCI) Research Project 2005-025-A, "Electronic Contract Administration – Legal and Security Issues". The outcomes from the research to date include a literature review and several case studies. The research project will ultimately produce a set of recommendations for secure and legally compliant electronic project administration.

Findings – It is apparent that, if the uncertainties associated with electronic project administration remain unresolved, then the practical consequences for parties using electronic project administration tools may be serious. On a more general level, these uncertainties will contribute to a reduced willingness by the construction industry to take advantage of modern communication technologies.

Originality/value – This research contributes to the need for greater clarity and knowledge of the legal issues and risks of electronic project administration in the construction industry.

Keywords Contract law, Risk management, Project management, Construction industry, Australia

Paper type Research paper

Introduction

This paper outlines the results of research conducted for the Australian Cooperative Research Centre for Construction Innovation (CRCCI) Research Project 2005-025-A, "Electronic Contract Administration – Legal and Security Issues". The purpose of this paper is to present a review of the literature on the legal and security issues that may arise from electronic contract administration in the construction industry, to explain these issues and risks, and to suggest possible solutions for legally compliant electronic project administration in the construction industry.

Information and communication technology (ICT) is increasingly used as an effective means of managing and administering construction projects (Nitithamyong and Skibniewski, 2006, p. 81). The type of technology that may be used ranges from standard e-mail communications through to sophisticated online collaboration platforms. The use of ICT has the potential to provide considerable efficiencies in the administration of construction projects by facilitating the giving of notices, variations to contracts and communications between project participants (Anumba and Ruikar, 2002, p. 270), but there has not yet been an extensive examination of the

Structural Survey
Vol. 25 No. 3/4, 2007
pp. 191-203

0263-080X
DOI 10.1108/02630800710772791

Assessment and enforcement of liquidated damages in construction contracts in Ghana

M.M. Tuuli
Taysec Construction Ltd (a Taylor Woodrow Company), Accra, Ghana, and
B.K. Baiden and E. Badu
Department of Building Technology,
Kwame Nkrumah University of Science and Technology, Kumasi, Ghana

Abstract

Purpose – The enforcement of liquidated and ascertained damages (LADs) can be problematic when the amounts are poorly assessed and there are lapses in the administration of contracts. This paper seeks to investigate the relevance of LAD clauses in construction contracts in Ghana, as well as the methods employed in their assessment and enforcement.

Design/methodology/approach – A parallel survey method was adopted. Three sets of similar questionnaires (slightly modified) were administered to professionals in client, consultant and contractor organisations in contract administration roles, to explore their experiences in the assessment and enforcement of LADs.

Findings – LADs are not serving their purpose in construction contracts in Ghana. Clients have created situations that render LADs unenforceable. LAD amounts are also not genuine pre-estimates of expected loss to be incurred, as assumptions and guesses rather than genuine calculations on a case-by-case basis are adopted in their assessment.

Originality/value – This research indicates that the enforcement of LADs can be enhanced if clients become more diligent in their contractual, mostly financial, obligations. Since a purposive sampling procedure was adopted, the findings and conclusions of this research are only tentative, but nevertheless raise serious issues regarding contract administration practices in Ghana.

Keywords Damages, Contracts, Construction industry, Ghana

Paper type Research paper

Introduction

The construction industry in Ghana, like that of many developing countries, plays an important role in the national economy, through its contribution to gross national product and employment. Despite this important role, the industry is still largely inefficient, especially regarding contract management, as characterized by lengthy payment delays, cost and time overruns and poor project implementation (World Bank, 2003). Recent measures, such as the passage of the Public Procurement Law (Act 663, 2003), are signs of change for the better. Key industry players such as clients, contractors and consultants are thus bracing themselves for the challenges of the new era.

Structural Survey
Vol. 25 No. 3/4, 2007
pp. 204-219

0263-080X
DOI 10.1108/02630800710772809

The authors gratefully acknowledge the members of the Ghana Institution of Surveyors (GhIS) for their generous collaboration and participation in this research survey.