

## Joint Selection as Best Practice for DRB Panels

### *Experience Shows it Can Open Doors*



**By Joe Gildner**  
 Deputy Executive Director, Design Engineering and Construction Management for Sound Transit and Past President, DRBF Region I Board of Directors

*About three decades ago, I sat with fellow team members to compile a list of potential candidates to serve on a Dispute Review Board (DRB) panel in the United States. Beginning then and through to today, I have appreciated the wisdom that DRBF founder Al Mathews offered when he told me that panel selection is the most important step in the DRB process. Further, today, I also see the great value that joint selection brings to the success of DRBs.*

That DRB panel selection 30 years ago was my first occasion to participate in such a process. I had recently left the private sector to become a public employee with Tri-County Metropolitan Transportation

of Oregon (the owner’s representative), engaged in managing a heavy civil underground construction contract for the West Hills Light Rail Tunnel and Deep Station project in Portland, Oregon. We had recently provided notice-to-proceed to our contractor and were in the early stages of the construction phase of the contract. I served as the Assistant Resident Engineer, integrated with a team of construction management consultants. This was a design-bid-build contract, and our contractor was a joint venture of Frontier Kemper/Traylor.

This contract represented the critical path in a family of contracts that defined the

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## President's Page

*Dear Members, Dispute Board Users, and Friends and Supporters of the DRBF,*

Welcome to the third *Forum* of 2020. It is my privilege and honour to serve as the President of the DRBF for the next year. May I take the opportunity to thank James Perry for his leadership over the past year, and to past-President Kurt Dettman, who now rotates off the Executive Board of Directors. I also congratulate Nicholas Gould on his election as President-elect.

I trust that you and your families are remaining safe, and that your businesses and workloads are holding up in these difficult times. As an organisation, we have also felt the impact of the pandemic, with reduced membership renewals, reduced sponsorships, and having to postpone or cancel various planned events, including our annual International Conference that was to be held in the beautiful city of Cape Town. Thankfully, prudent financial management over many years has given us sufficient reserves to withstand the loss of revenue. We are also grateful to have received assistance through the US "Paycheck Protection Program," since the DRBF is based in the US. Nevertheless, it goes without saying that we rely on you—our members, DB users, friends and supporters—to continue your support, so that we can pull through and restore our financial health over the course of 2021, when hopefully the pandemic will have subsided and we get back to the new normal.

However there is still a silver lining: the pandemic has forced us to adapt and innovate. Greater familiarity and experience with video conferencing have in some ways brought us closer together as an organisation. We have already held our Annual General Meeting virtually, hosted a number of webinars and held cross-regional (and time zone) committee meetings, as well as regional and country representative meetings. As you will see within this edition of *Forum*, we have an ambitious schedule for further webinars and are working hard to develop an innovative and exciting programme for an on-line conference in October. This event will replace the in-person conference originally planned for Boston, Massachusetts, US.

To ensure that dispute avoidance and real time dispute resolution benefits are not lost, many DB users and practitioners have embraced virtual site visits, meetings and even hearings. To this end we have published a paper on best practice guidelines for virtual DB proceedings, based on our combined experience across the globe. Members can find that in the DRBF online library.

Finally, I am pleased to report that the DRBF has been working diligently with FIDIC, the International Federation of Consulting Engineers, to support their initiative to expand training for Dispute Avoidance/Adjudication Board practitioners within the use of FIDIC standard form contracts. More details on this program will be forthcoming in the days ahead. My thanks go to James Perry, Leo Grutters and Peter Collie for their leadership and dedication to building a successful relationship between DRBF and FIDIC for the enhancement of Dispute Board practice worldwide.

With that, I hope you enjoy the interesting news and articles in this edition of the *Forum*.

All the very best,



Andrew "Andy" Griffiths  
President of the DRBF's Executive Board of Directors



Andrew Griffiths  
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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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light rail extension. For this contract, one of our professional design service consultant contracts included a blue ribbon technical advisory panel. The members of this advisory panel included Dr. Ralph Peck, Al Mathews, Jim Monsees and others. As we were going through this process of compiling names for a selected candidate, I recalled the advice of Al Mathews, who said that the proper selection of the DRB panel is one of the most important steps in the successful application of the DRB process. We nominated Norman Nadal as our panel member, and the contractor nominated Stuart Bartholomew. These two members in turn selected Dr. Edward Cording to serve as the Chair.

During the life of this contract, there were numerous commercial issues regarding site conditions related to the excavation and support of the twin tunnels and deep station. The DRB panel successfully served the parties, encouraging both sides to avoid and resolve disputes. In the prosecution of this contract, the parties did not receive any formal recommendations from the DRB panel, and the contract was successfully completed through mediation and associated negotiations.

Fast forward to today, decades later, and now I work with Sound Transit (ST) in Seattle, Washington, serving as the Deputy Executive Director- Project Management in the Agency's Design and Construction Management department. I am engaged in the capital transit expansion (e.g. light- and commuter-rail and bus) programs of approximately \$13 B in King, Pierce, and Snohomish Counties in

the Central Puget Sound region of western Washington State. For the past 22 years at Sound Transit, I participated in the agency's process to select nine DRBs to serve the parties on a variety of heavy civil contracts. These have included tunnels and subway stations, elevated guideways and stations, at-grade alignments with stations, and a very unique application of light rail system on an existing interstate floating bridge spanning Lake Washington. The contract delivery methods include design-bid-build, design/build, and general contractor/construction manager (GC/CM).

In all of ST's contracts with DRBs over the past two decades, the agency has used the joint selection process with our contractor to procure the services of all three DRB members. This process follows the guidelines the DRBF set forth in its *Dispute Board Manual: A Guide to Best Practices and Procedures*.<sup>1</sup>

At the outset of the process, ST and our contractor meet and discuss the likely risks and issues with each contract based in part on the allocations of major risks (both known and unknown) aligned with the specific contract delivery method and associated provisions. These early discussions between the parties are important because they establish the contract profile elements that frame the desired qualifications of perspective DRB members. This includes the experience and understanding of the specific contract delivery method and the necessary skill sets required for various contract requirements.

The joint selection process eliminates any perception of allegiance to a nominating party. In each case, the parties have allowed the three members the opportunity

<sup>1</sup> *Dispute Board Manual: A Guide to Best Practices and Procedures* is available as a free download to an eReader at [www.drb.org](http://www.drb.org) or for purchase wherever books are sold.

to select which member will serve as Chair. And in each case, the parties have generally accepted the proposed billing rate of each DRB member without any reservations.

At present, ST has three active DRBs: two panels are engaged in design/build contracts, and one panel is engaged in a heavy civil GC/CM contract. At ST, the agency prefers that DRB panelists be active DRBF members who have successfully completed all the applicable DRBF training courses. Early in the selection process, the agency conveys this preference to our contractors. For the most part, our contractors have agreed with this preference, and so the vast majority of our DRB panels have included active DRBF members.

In the most recent *Dispute Board Manual*, the DRBF states joint selection "... reflects the DRBF's recommended best practice for the appointment of a DRB." Sound Transit concurs, but still, there are some challenges with the joint selection process.

One of the major challenges is the consistent disparity in the number of names the parties compile and bring into the discussions for joint selection. In all cases, the agency compiles a larger list of potential candidates than our contractors do. In fact, the agency's list often includes twice as many names. And, when the agency has multiple concurrent DRBs and overlapping selection processes, it is not uncommon to see the same names on short lists provided by the different contractors.

The agency acknowledges that both parties will list the names of preferred practitioners as part of the joint selection process. Still, the parties need to continue to challenge each other to expand and

diversify their respective lists to provide greater opportunity for practitioners. In the agency's latest joint selection process for a design/build contract, both ST and our contractor took the time to conduct several rounds of joint discussions to identify the mutually agreeable short list of DRB candidates. Both also conducted joint interviews of some of these candidates before finally agreeing on the three members. The result is a DRB with two of three members being used for the first time by the parties and, for ST, the first time a women has served on our DRB.

### Conclusions and observations

Going forward, the joint selection process will continue to provide the best opportunity for the parties to select their preferred DRB. With this process, we need to continue to heed the words of Al Mathews spoken to me three decades ago, to truly understand the critical importance of this first step in the successful application of the DRB process. The parties need to continue to challenge each other to compile lists of names that don't always include the same limited number of practitioners and to look for those opportunities to jointly interview unfamiliar practitioners.

Similarly, the parties should keep an open mind for opportunities through the DRB process to mentor new practitioners. In addition, I applaud the DRBF's emerging initiatives to develop Apprenticeship and Mentoring programs for new practitioners.

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# Project Culture: Creator or Preventor of Disputes?

## INTRODUCTION

The CRC for Construction Innovation in Australia convened a dispute avoidance and resolution (DAR) task force in 2009 which included the Dispute Resolution Board of Australia (DRBA\*). The task force published a “Guide to Leading Practice for Dispute Avoidance and Resolution” which concluded that:

- clients and project sponsors have the greatest ability to take advantage of opportunities at the beginning of projects to influence the elimination or minimisation of causes of disputes in projects
- strategic decisions made by the project sponsors during project initiation create the environment or culture of each construction project which have a fundamental impact on the way people work and the way issues are addressed

The purpose of this article is to assist dispute boards (DB) not just to avoid, but to prevent disputes through applying a methodology that can:

- determine the culture of a project sponsor organisation and its impact on forming a dispute-free high-performance project team;
- design the most appropriate culture (i.e. “the way we do things here”), with consideration of the external environment for inclusion in the

project development strategy, so that disputes are prevented; and

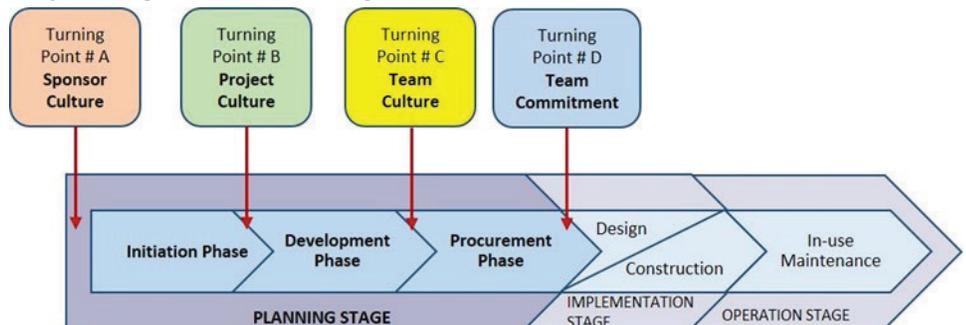
- monitor for project culture changes through four phases of project development so as to forecast the potential for a dispute arising due to changing circumstances, particularly personnel movements.

## ROOT CAUSES OF DISPUTES

Studies of completed projects in Australia and overseas have sought to catalogue and group the most common causes of disputes. Recently, attempts have been made to identify the root causes of disputes - the underlying reason for a problem which, if eliminated, would have prevented its occurrence. Seminal research into root causes, noted in the DAR report, were:

- Love and Davis (2008) characterised many of the root causes of disputes as being like “pathogens”, latent conditions within the project delivery process causing inefficient project performance, and able to be grouped under three headings: Practice, Task, and Circumstance.
- Diekmann and Girard (1995) analysed root causes of disputes as either People or Process related.
- Crow and Barda (2001) identified decisions made about six indicators that largely determine the culture or environment of projects and their

Figure 1: Project Stages/Phases/Turning Points



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Region 3

success while mitigating root causes of disputes.

These root cause origins of disputes are embedded in the project initiation phase of the planning stage processes (figure 1), and decision making by project sponsors (asset end users, asset owners, and/or their financiers). The decisions, so made, substantially determine the project environment or culture.

Crow (2004) reported on research into 35 projects, 28 of which were found to have performed outstandingly, and had no disputes. It was found that six critical sets of decisions by project sponsors largely determine the success of projects and, if made sub-optimally during the planning stage, contain the root causes of disputes. These decisions involve:

- **sponsor leadership** to ensure collaboration between the senior project team members and instil the required performance culture;
- **degree to which siloed functional departments/stakeholders collaborate** and agree on common goals and strategies;
- **relationships and level of trust** in the skills and behaviour of the project team (particularly the head

contractor) borne of previous experience or the advice of advisers;

- **financial practices** of the project, and the risk appetite/tolerance which each of the project sponsors is able, or prepared, to take;
- **project delivery strategy** designed as appropriate to the asset, market conditions, and site conditions; and
- **sponsor project director brief** and the limitations it places on that person to deal equitably with other parties to the contract when solving problems.

The term ‘Planning Stage’ (incorporating initiation, development and procurement phases) has been adopted as the most acceptable phrase to describe activities undertaken pre-design for infrastructure projects. The planning stage of projects, irrespective of the delivery method to be adopted (e.g. D&C, Alliance, construct only), determines the strategies to achieve a successful project. These range from the functional brief and business case through sustainability targets to formation of the implementation team.

**PROJECT TURNING POINTS**

Crow and Barda (2001) established that the primary determinant of a

Table 1: Culture Determines Turning Points

Turning Point (TPt)	Culture Importance	Project Turning Point KPIs and Benchmarks
<b>A. Sponsor Development Culture</b>	Transposed through policies/practices and contracts onto the project team.	Governance and planning principles Corporate project goals and beliefs Sustainability commitment Sponsor leadership and project engagement practices Team trust, collaboration, relationships
<b>B. Project Culture</b>	Drives the rigour sponsors apply to project initiation in defining business mission	Initiation policies; Initiation study rigour Confirmation of Turning Point #A being adopted
<b>C. Team Culture</b>	Determines effectiveness/ efficiency of appointing an external supply chain to achieve sponsor’s project business mission	Team integration Business planning commitment Confirmation of Turning Point #B being adopted
<b>D. Team Commitment</b>	Measures the thoroughness/rigour sponsors apply to project start-up and commitment of team to achieving the project mission	Project business plan contents Confirmation of Turning Point #C being adopted

project's outcome is the sponsor development culture which, in turn, drives the project culture, team culture and team commitment. Cultures within the planning stage result in milestones referred to as project turning points (Table 1). These are lead indicators as to whether or not an infrastructure project will achieve an outstanding dispute free outcome with optimum sustainability. Project turning points can reset dispute prevention strategies and thus create need for greater dispute avoidance vigilance.

These project turning points:

- Result from a succession of decisions and actions which
  - Cumulatively define the sponsor, project and team cultures
  - Consequently 'cast in bronze' the direction of the project outcome by
  - Influencing the rigour applied to carrying out the planning stage activities
- Determine whether a project will have an outstanding outcome with zero tolerance for disputes
- Have most cost impact at a time of least expenditure; i.e. during the initial planning stages (figure 2)

Once the project has proceeded through the milestone, project performance is capped within the policies/practices defined by the culture. The project outcome is then set and maintained moving forward from each turning point. If the project passes through the first turning point without a zero-dispute tolerance culture then the remainder of the project will probably follow 'suit'.

### DETERMINING PROJECT CULTURE

With project culture being a critical determinant of dispute prevention, a methodology has been developed to quantify it using maturity models and balanced score cards. This allows project culture to be:

- Structurally designed into projects
- Monitored/audited during the development to provide an early warning of potential dispute issues

The study of 35 projects, tested on over 70 project monitors/audits since year 2000, resulted in the preparation of 18 maturity models supported by eight checklists. These allowed an assessment of a projects journey towards excellence, with zero tolerance of disputes, using

Figure 2: Project Turning Points Cost Impact

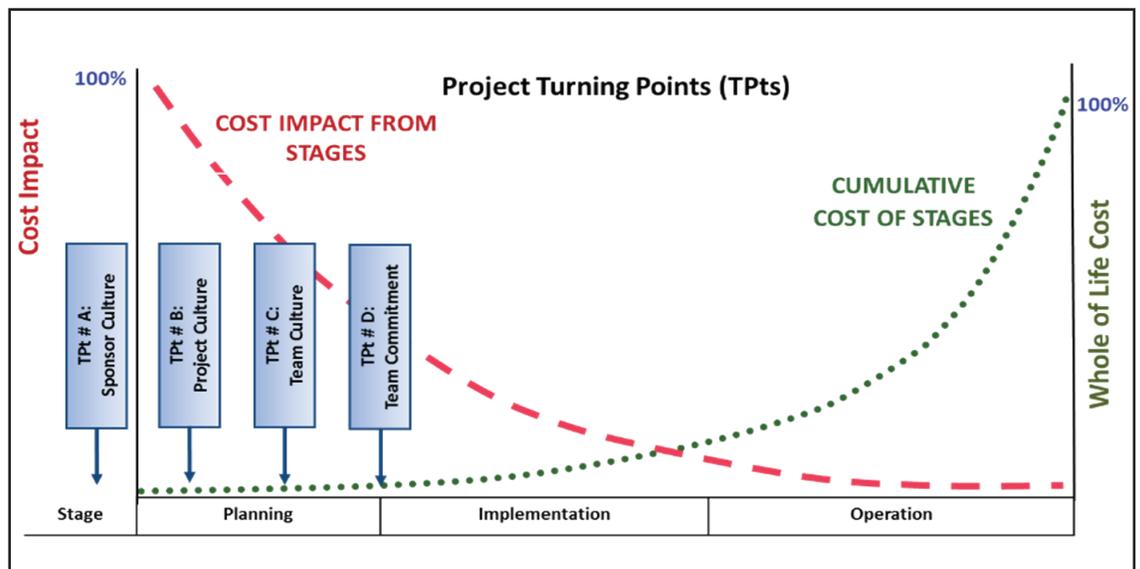
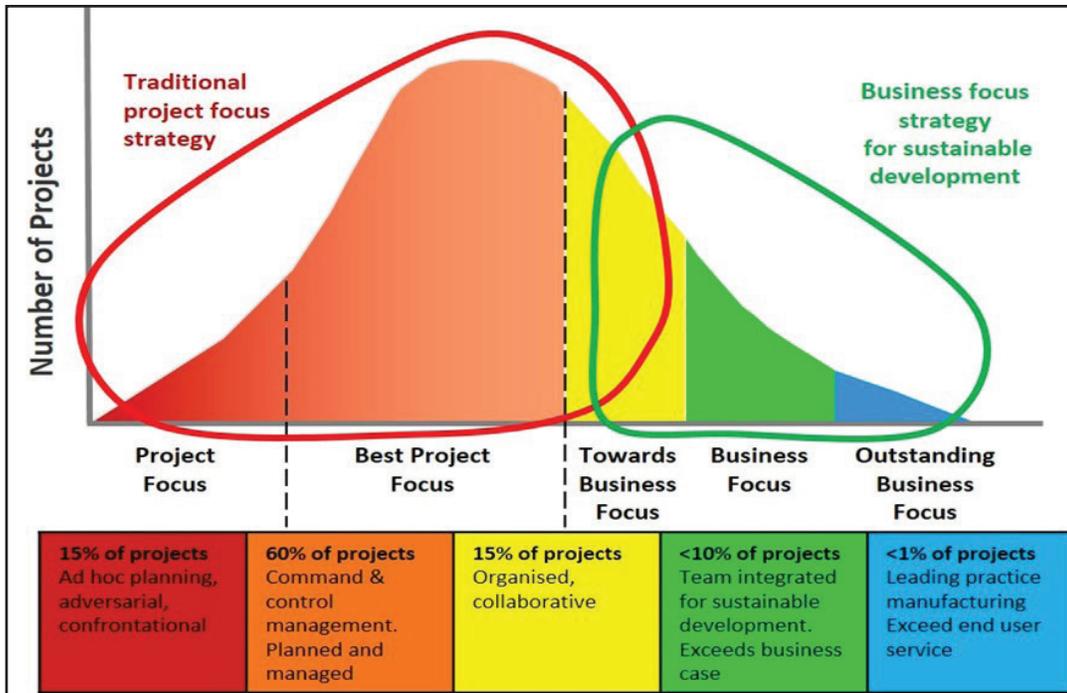


Figure 3



balanced scorecards. The model’s criteria are focused at the four project turning points.

project focus (red) to outstanding business focus (blue) with eight supplementary checklists

A maturity model is a set of structured levels that describe how well the behaviours, practices and processes of an organisation can reliably, and sustainably, produce required outcomes. A maturity model can be used as:

- benchmark to determine the current performance level being achieved in an organisation or project
- roadmap to plan and implement improvements
- early warning of ‘pinch points’ that could become disputes

Experienced DBs can use the maturity models to determine the project culture during project initiation, and thus design-in dispute prevention. The resulting maturity model assessment is recorded on a balanced scorecard using ‘traffic light indicators’, together with suggestions for continuous improvement to advance the project performance towards excellence and zero tolerance towards disputes. Red traffic lights, driven by a lack of collaborative leadership and risk averse contracts, are an early warning indicator of a dispute while an orange or yellow light should be kept under watch. An example of a maturity model for project delivery strategies, is included as table 4.

The framework for the maturity models, derived from the research, is the colour coded project performance distribution chart (figure 3), which:

- Establishes that the distribution of project performance follows a pattern with either a project or business focus
- Provides the evidence to prepare maturity models that tracked 18 performance criteria from traditional

### MONITORING / AUDITING PROJECT CULTURE

Through conducting independent project audits/monitors for over 45 years, this author has been able to contribute to avoiding the need, by both sponsors and

BENCHMARK					
<b>POLICY/ PRACTICE</b>	Delivery strategy determined only by risk averse legal team who prepare a unique contract biased to the sponsor.	Legal advice and selected contract determine project delivery strategy. Probity limits innovation and sustainability suffer	Development strategy considered as one criterion for contract selection.	Development strategy determined with stakeholder involvement. Sustainability rating achievement is a strategic goal.	Development strategy designed with stakeholders to sustainably achieve end-user needs. Suppliers treated as outsourced employees.

Table 4: Example of Culture Maturity Model for Delivery Strategies

contractors, to create disputes to recover losses from underperformance. Ribeiro (2018) discussed reasons to use audits in dispute avoidance.

Audits originally were on time, cost and risk issues, to which project culture can now be added as a lead indicator of dispute root causes. With the research into maturity models, it has become possible to also monitor trends of project culture changes and forecast the potential of a dispute being ‘fabricated’. Monitoring performance of all aspects of the project (including culture, productivity, profitability and cash flow), highlights the need for corrective action and thus removes spurious claims for financial recovery by:

- sponsors business case underperformance - not securing sufficient funds prior to committing the project, or underestimating contingency allowances - can be a root cause of seeking financial recovery by delaying progress payments or rejecting legitimate variation claims
- supply chain manufacturing and installation underperformance, particularly labour productivity and cash flow, can be a root cause of seeking financial recovery from any opportunity even if unrelated to the root cause

An auditor’s role is not inconsistent with that of a DB as it must be carried out independently. It is “not to decide who is right or who is wrong, but to identify the actual situation on-site and propose an action plan of improvement” (Ribeiro 2018). It is critical in auditing project culture using the maturity models that the auditor has at least 30 years’ experience in all aspects of project development (i.e. as a sponsor and all supply chain activities from designer to trade contractor).

The auditor then has the experience to ‘read between the lines of evidence’ using the checklists as memory prompts of similar past events and issues. Auditing progress is an essential support for project governance which is the custodian of the project’s culture.

### CONCLUSION

There have been a number of Australian events which provide a lead indicator of emerging issues that could develop into future disputes. These include the Shergold Weir report (2018) and the Royal Commission into Financial Services (2018), leading to a focus on directors’ responsibilities and accountability, climate change impact and the trend of infrastructure owners to seek a sustainability rating of their completed projects. All these issues have

their seeds sown during project initiation, and DBs need to be conscious of these emerging issues which may not mature until the completion of the project.

However, the risks of these issues occurring as a dispute are significant and can be prevented, or at least mitigated against, during the project initiation phase through creating a collaborative project culture. This provides DBs with a further opportunity to assist their clients, as directors of sponsor boards must be seen to take action to manage their corporate risks. DBs have an opportunity to be more

proactive in preventing disputes during project initiation through recommending strategic structural change (e.g. internal organisation structures, contracts, establishing positive project cultures) instead of seeking to avoid the dispute during design and construction (figure 4). DBs should start their role during project initiation to provide guidance on designing-in a collaborative project culture with zero tolerance for disputes.

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## **DBs in Brazil: New Law Authorizes the use of Dispute Boards in Public Contracts in a Major Capital City**

A new law was published 20 June 2020 in the metropolitan city of Belo Horizonte, capital of Minas Gerais State, authorizing the use of Dispute Boards to avoid and resolve controversies and disputes related to alienable rights in long term public contracts. The law is Local Law n. 11.241 of 19/06/2020 in the city, which is the 13th largest in South America and the 18th largest in the Americas.

The law has its origins in the Bill n. 388/17, whose author was the city councilor Irlan Melo. The draft bill was made by Gilberto José Vaz Advogados partners, including Gilberto José Vaz, member of the DRBF's Region 2 Board and vice president of the Camara de Mediação e Arbitragem Empresarial - Brazil (CAMARB); Renata Faria S. Lima and Roberto C. Vasconcelos Novais, members of DRBF and arbitrators in CAMARB.

According to the law, the Dispute Board may be used for the review or adjudication of disputes, or a combination of both. Dispute Review Boards have the power to render non-binding recommendations; Dispute Adjudication Boards have the power to render decisions which are binding to the parties. Combined Dispute Boards may render recommendations or decisions with respect to disputes, in accordance with the request of the party and the acceptance of the DB. According to this new law, non-binding recommen-

dations made by the DB now may be directly settled by the parties.

The law also provides that public bids can define specific regulation for the establishment and processing of Dispute Boards or may adopt the existing rules of a specialized and recognized Institution for Dispute Resolution.

Also according to the law, the Dispute Board may be permanent, in which case it will be established just after the celebration of the contract, and last throughout the contractual period; or it can be ad hoc, in which case it will be established after the notification of the dispute by one of the parties. It shall be composed by one or three skilled professionals indicated and accepted by both parties. The DB members should have skills in engineering, law, or be an expert in the work of the contract.



The law also provides that the members of the Dispute Board must act with impartiality, independence, competence and diligence. Appointed members must disclose, before accepting the position, any facts or circumstances that could give rise to reasonable doubts as to the members' impartiality or independence.

Members may not have taken part in the project or contract in which the dispute submitted to the Board is based, and, equally, may not have participated, or participate in the future, in any proceeding, either administrative, judicial, arbitral or any other similar proceeding, related to the elaboration of the contract, either as a judge, arbitrator, representative or consultant of one of the parties.

It is important to highlight that the law n. 11.241/2020 foresees that the Board

members will only be responsible for any act or omission when they act with intentional misconduct or gross negligence. The expenses incurred with the Board are included in the contractual budget.

“This statute is an advance for the Local Public Administration, its contracted companies and for all the town citizens, who should make good use of it,” Vaz reports.

For more information, contact DRBF Region 2 Board member Gilberto Vaz at [gilberto@gilbertovazassociados.com.br](mailto:gilberto@gilbertovazassociados.com.br).



Discussing the newest Dispute Board bill in Brazil are, from the right, Roberto Vasconcelos, Renata Faria Lima and Gilberto Vaz, along with city councilors Irlan Melo and Mateus Simões from the city of Belo Horizonte, Brazil.

## DRBF Conference in Jakarta January 2020



Realizing the benefit of using Dispute Boards to enhance construction productivity, Indonesia has introduced a law of construction service, Law No. 02 Year 2017, in which the use of Dispute Boards, called “Dewan Sengketa” in the Indonesian language, is facilitated by law. Due to the introduction of the law on construction services, the number of major projects in Indonesia which utilized Dispute Boards is expected to increase significantly.

After two successful DRBF events organized in Indonesia — in Bali in 2017 and Yogyakarta in 2018 — the goal of the January 2020 DRBF Conference and Workshop was to develop the understanding of stakeholders related to the use of Dispute Boards as the choice worldwide and especially in Southeast Asia.

“The introduction of Dispute Board procedures and best practices to all construction stakeholders in Indonesia is critical to the success of the implementation of the new construction law,” says Sarwono Hardjomuljadi, conference committee chair, DRBF representative to Indonesia and Region 2 Board Member.

The theme of the three-day event was, “Reaching New Heights with Dispute Boards in Southeast Asia.” Almost 190 registrants participated from Australia, Philippines, Malaysia, Singapore, Vietnam, China, Korea, Japan, France, and UK. It is noteworthy that less than two weeks before the start of event, only 20 delegates had registered; so the DRBF considered the need to postpone. But in the next few days, registration numbers reached the maximum capacity of the host facility, the Hotel GrandDhika Jakarta, Indonesia.

CMS provided support at the Silver sponsorship level. Organizations helping with promotions included the Ministry of Public Works and Housing of the Republic of Indonesia and Dewan Sengketa Konstruksi Indonesia (DSKI), which sent many employees.

The DRBF conference organizers Sarwono Hardjomuljadi and Franz Widjojo thank the sponsor, the two dozen speakers and workshop tutors for their contributions to the success of this event.

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## DRBF Supports Increase of DBs in Indonesia



*The Opening Speech by HE Arsul Sani, MP, Vice Chairman, People's Consultative Assembly Republic of Indonesia*



*Addressing the audience: Domna Alisyah Siregar, Panani Kesai, Wibisono Setiowibowo, Weddi Bernadi Sudirman*

**We miss seeing you in-person, but don't worry. We will continue to work diligently to bring our members the latest Dispute Board standards and industry practices.**

**Interested in hosting or joining the DRBF for a webinar or online meeting or event? Contact us at: [info@drb.org](mailto:info@drb.org)**



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Balfour Beatty Construction, Inc.  
S.H. Bartholomew, Inc.  
John Beyer  
Roger Brown  
William C. Charvat AIA  
Frank Coluccio Construction Co.  
Dillingham Construction, Inc.  
Raymond J. Dodson, Inc.  
James P. Donaldson  
Peter M. Douglass, Inc.  
Paul Eller & Associates  
Frontier-Kemper Constructors, Inc.  
Steven M. Goldblatt  
Granite Construction, Inc.  
Guy F. Atkinson Co. of California  
Greg M. Harris, Esq.  
Paul R. Heather  
Impregilo SPA  
Gordon L. Jaynes, Esq.  
Al Johnson Construction Co.  
Keating Associates  
Kellogg, LLC  
Peter Kiewit Sons Inc.  
Thomas R. Kuesel  
Kerry C. Lawrence  
Lemley & Associates, Inc.  
Al Mathews Corporation  
McNally Tunneling Corporation

## *A conversation with...* **Dick Appuhn**

*The editor invited me to share some Dispute Board (DB) experiences with the membership and posed a series of queries concerning my experience. Before launching into the questions, I would like to share my background as a Dispute Board adjudicator.*

My experience involves mainly applications that are based on an extensive range of the FIDIC contract forms beginning with the 4th Edition Conditions of Contract for Construction on works designed by the Employer, and finishing with the full suite of the 1999 Rainbow Suite of Contracts. Dispute Boards have taken me to Europe, Africa, the Far East and to ex-Soviet states.

I have yet to receive an appointment under a 2017 FIDIC Edition.

The experience I describe will bear significantly on the answers to the questions posed. The contract conditions published by FIDIC have evolved through the years, as have the roles that Dispute Boards play under those developing scenarios. So, we begin sharing experiences with a brief narrative summary of the evolution of FIDIC Contracts and the roles of Dispute Boards in the constellation of those contracts.

The World Bank commissioned FIDIC in 1996 to write a supplement to its 1992 4th Edition Contract to introduce a neutral Dispute Resolution Board (DRB) into the dispute resolution clauses of that edition. The authors of that supplement drew heavily on some 20 years of DRB experience in the United States. In compliance with FIDIC's desire to maintain the binding nature of decisions taken by the Engineer under all its contract forms starting from the 1st Edition in 1954, they

set out Conditions and Procedural Rules that left very wide authority to the DRB to engage the Parties with non-binding advice (or opinion), in the endeavour to avoid formal disputes that would eventually lead to the requirement to give binding decisions.

FIDIC adhered to the 1996 philosophy of dispute avoidance in drafting its 1999 Contract Conditions as well as the 2010 MDB Harmonized Edition. The 1999 Editions oblige the Dispute Board to give non-binding advice to the Parties upon the request of both to do so. That obligation is an important tool of the DB to avoid formal disputes and binding decisions.

After 17 years, the FIDIC Contract Suite evolved into the current 2017 Editions. The authors of those editions increased the number of procedural steps and consequent time bar conditions significantly, both in expanded claims clauses and dispute resolution provisions. The name given for the "DAB" under the 2017 contracts is expanded by one letter to include, "Avoidance" (now DAAB), and the conditions set out restrictive terms under which the Dispute Board can or cannot offer non-binding advice to the Parties.

Like the FIDIC contracts, the job of the Dispute Board adjudicator is evolving in lock step. As time moves forward, it is becoming increasingly difficult to engage the Parties in non-binding discussions in the effort to avoid costly and time-consuming binding adjudications often leading to subsequent statutory litigation.

Notwithstanding increasing difficulties in dealing with differences between the Parties, I continue to adhere to the motto,



Richard "Dick"  
Appuhn

Past President  
of the DRBF  
Executive Board of  
Directors, 2016

Al Mathews  
Award for Dispute  
Board Excellence  
Recipient, 2009

*“A successful board is a board that does not receive a referral.”*

Against this backdrop, we turn now to the editor’s questions:

*What is the most satisfying DB on which you have served and why?*

There are several, but one stands out as being the most satisfying.

The contract involved the construction of a port facility in an African country. The employer was a private entity, and the contractor was an East Asian company with limited experience in the region. The project design was prepared on behalf of the employer by an American consulting firm that also supervised the construction work.

The employer adopted an earlier version of the 2010 MDB Harmonized Edition. It took advice in its preparation of the contract and, perhaps more importantly, in the decision to engage a three member DB early in the contract period.

The DB was able to engage the parties in discussion concerning the management of claims and disputes. The employer was proactive in dealing with the contractor’s claims, even with claims with controversy.

About mid-way in the contract, the parties advised the Board they understood that with its guidance they could perhaps dispose of its services. Following a reasonable trial period without the DB’s assistance, the parties decided to terminate its services.

Three years later and with special thanks, the parties contacted the Board members to announce that the project had been completed on schedule, within budget

and with no unresolved claims. This Board remains to this day the most satisfying DB experience.

*What is the most difficult situation with which you have ever had to deal on a DB?*

That Board leaps immediately to mind.

The project was situated in a metropolitan area in Southern Africa and involved rehabilitation work in connection with water supply, sewerage collection and wastewater treatment. The employer adopted the 1999 Edition of the FIDIC Conditions of Contract for Construction that envisioned a sole-member Dispute Adjudication Board.

The parties were late to appoint the DAB, the project being approximately 30% completed when the Board appeared on the scene. Claims had already crystallized and involved the common difficulties of site access and varied design problems that torture contracts of this nature. Importantly, the project was already in serious delay when the Board arrived.

Despite the difficulties, the Board was successful to persuade the parties to resort, first to non-binding advice on an administrative issue. One of the parties refused to accept the Board’s advice. That refusal motivated the other party to abandon any question of informal dispute avoidance and to resort exclusively to submit referrals seeking binding decisions regarding each of its claims.

Disputes continued to crystallize, a fact that led both parties to terminate the contract at a time when the sole member DB was dealing with more than one referral. Both parties referred the termination issues to the Board, raising requests



CONTINUED

- Mechanical Contractors Association of Western Washington
- Meyer Construction Consulting, Inc.
- 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 LLP
- Shannon & Wilson, Inc.
- J.F. Shea Co., Inc.
- Patrick A. Sullivan, Esq.
- Traylor Brothers, Inc.
- Underground Technology Research Council
- URS Corporation
- Watt, Tieder & Hoffar, LLP
- James L. Wilton
- Ed Zublin AG

for decisions regarding matters that the Board was already considering under the current referrals.

The parties were uncooperative to agree that the DAB should consolidate the claims and deal with contract issues and termination under one procedure. The disputes and the procedures became so complex that an entire week of oral hearing was necessary.

Parties then engaged counsel to represent them. The Board ended up having to deal with separate party referrals on the same issues, including duplicate statements of claim and defense as well as oral hearings. It is easy to imagine the procedure difficulties that emerged when one of the parties refused to extend the period allowed to the DAB under the contract to return its decisions.

The reason for the difficulty was to have to deal with complex questions of procedure and jurisdiction under a set of Procedure Rules that did not deal with the circumstances.

The closing thoughts for contracting parties under this scenario are to consider the advantages to (i) name three-member DABs for complex projects and (ii) get the DAB into place as early as possible.

*How and when did you get your first DB appointment?*

The first appointment came 15 years ago by a word-of-mouth recommendation to one of the parties. I suggest this is probably the most common way that one obtains a first appointment. It is crucial that one gets onto approved adjudicator lists, as parties will often consult such lists when searching for Dispute Board members.

And this takes us directly to the next question.

*What advice would you give to younger members keen to obtain the first DB appointment?*

The advice I most commonly give to younger members is to build one's *profile*.

The DRBF is an organization that promotes the use of Dispute Boards, and it sponsors conferences and training events that offer ample opportunity to an individual to become known in the international dispute resolution community.

The DRBF offers the opportunity for members to become active in public conferences and training events and to develop a *profile*. I sincerely believe that this Foundation has been instrumental to my own development as a recognized Dispute Board adjudicator.

The advice is to join the DRBF and to become an active contributor to its goals. That effort will be repaid many times over.

So, the answer to the common question, "What can the DRBF do for me?", is that it provides the platform for building your profile.

*How many DBs can a member properly serve on at any one time?*

There is no stock answer to this commonly asked question.

However, in considering the number of Boards on which one can properly serve, the first thing that comes to mind is the Procedural Rule under the FIDIC forms that require the DB to issue its Site Visit Report before leaving the site.

This might, at first blush, seem an irrelevant observation.

I find that on sole-member boards it is useful to produce the Site Visit Report whilst still on site. I normally share the draft of that report with the parties and the Engineer.

Once the parties have had the opportunity to consider that document, the DB then conducts a review with the parties.

I find that the two or three hours reviewing the draft site visit report with the parties are often, if not always, the most

productive hours spent on the visit.

In conclusion, if one has no time to comply with the Rules, then the suggestion would be that it should not accept further Boards unless and until its commitments to other Boards or business commitments permit compliance.

On a personal note, in answer to the editor's question about how to stay healthy, I reply: "I try not to age! And golf."

Dick Appuhn can be reached at [dick@appuhn.us](mailto:dick@appuhn.us)



## COVID-19 Update

It has been over five months since the DRBF initially addressed the COVID-19 pandemic, and we want to keep you updated on how we continue to navigate and move the DRBF and the global Dispute Board community forward. We have published several articles to help members maintain DB procedures while staying safe. We encourage you to download the articles listed below, and look for additional resources at the DRBF Connections Conference in October.

- ➔ [Best Practice Guidelines for Virtual Dispute Board Proceedings](#)
- ➔ [Checklist for Dispute Board Members in Preparation for Virtual Dispute Board Proceedings](#)

The DRBF is grateful for the contribution of the lead developers of these resources, Jerney Glover, Leo Grutters and Ann Russo and contributors Bill Barton, Kurt Dettman, Giovanni di Folco, Graham Easton, Ron Finlay, Andrew Griffiths, Eric Kerness, Hal McKittrick, Matt Michalak, Giorgiana Tecuci, Elizabeth Tippin, Anton van Langelaar, and John Westland.

# DRBF Task Force Update: Public Private Partnerships

## BACKGROUND

Public Private Partnerships (PPPs) are increasingly being used as a way to bring private sector money to the table to fund public projects. For example, Australia and Canada have very mature PPP markets and decades of experience in delivering PPPs. By contrast, the United States has not had the same depth of experience, and recent articles in *Engineering News Record* have highlighted that some major companies are pulling out of the PPP market in the U.S. due to perceived risk of overly aggressive risk transfer from owners, resulting in major claims.

Recognizing that PPPs are “here to stay” as a mechanism to bring private sector funding and know-how to public sector project delivery, several years ago the DRBF Executive Board of Directors (Ex-BoD) formed a PPP Task Force to serve as a thought leader worldwide for the use of Dispute Boards on PPP projects. The purpose of this article is to update DRBF members on the Task Force’s activities and initiatives, plus provide information to assist in outreach on DB use on PPPs.

## PPP TASK FORCE PAST ACTIVITIES

The main activities of the DRBF Task Force to date have focused on:

- Publication of two white papers, one on the use of DBs in the US and Canada and the other on the use of DBs globally (available in the DRBF Library).

- Organizing and presenting workshops on DBs for PPPs at DRBF conferences. As an example, there was a half-day workshop held in conjunction with the 19th Annual International Conference in Berlin: “Dispute Boards: Public-Private Partnership (PPP) Models and How DBs Help Prevent Disputes.”

- Speaking at PPP conferences. As an example, DRBF members presented in July at the P3 Water Summit in the US. [https://www.youtube.com/watch?v=fYiVm6Fi5\\_g](https://www.youtube.com/watch?v=fYiVm6Fi5_g)

- Tracking and making contact with PPP projects and with major funding agencies (such as the multilateral development banks, or MDBs) regarding best practices for use of DBs on PPPs.

- Contributing to the DRBF’s 2019 *Dispute Board Manual: A Guide To Best Practices and Procedures*, specifically Chapter 10, “Dispute Boards in Public-Private Partnership Contracts.”

## PPP TASK FORCE: CURRENT PROJECTS

The Task Force has the following major deliverables in progress for 2020 and 2021:

- Development of best practices models for the use of DBs on different types of PPP delivery methods (for example, Design Build and Deliver; Design Build Finance and Deliver; Design Build Finance Operate and Maintain). In essence,



DRBF Task Force Update: Public Private Partnerships

By Kurt L. Dettman

this will be a 2.0 version of the general guidance included in the DRBF’s 2019 *Dispute Board Manual*, designed for worldwide usage depending on delivery method.

- Publication of updates to the existing White Papers for Regions 1 and 2, taking into account market and industry developments since they were first published a few years ago. Publication of a White Paper covering the PPP experience in Region 3 is in development.
- The DRBF’s Executive Board developed a 5-year Strategic Plan in 2018 that included pursuing the PPP Task Force initiatives. The Task Force is working with the ExBoD on updating the Strategic Plan in 2020, to take into account current PPP market conditions, including the impact of COVID-19.

### PPP TASK FORCE INITIATIVES BY REGION

Each Region’s Task Force Vice-Chair is leading the following initiatives that take into account region-specific PPP experience and current market conditions:

#### REGION 1 FOCUS

Updating the 2015 White Paper, including:

- Update of White Paper “Exhibit 1”, a summary of dispute avoidance and dispute resolution techniques used on PPPs in the region
- Selected case studies of DB useage on PPPs

- Development of a “tool kit” of best practices and model documents for DBs on PPPs
- Surveying selected law firms to get feedback and engagement with those who draft PPP agreements
- Maintaining contact with industry groups that have PPP-specific groups (for example, Design Build Institute of America, American Road and Transportation Builders Association, and Associated BIA and ARTBA; and American Public Transportation Association)
- Maintaining a “Canada sub-group” to focus on that country’s PPP practices/projects
- Identifying PPP projects in the pipeline for early engagement on use of DBs

#### REGION 2 FOCUS

Updating its 2017 White Paper. Main focus is to include case studies (from Europe and Africa) supporting the recommendations/conclusions in the current White Paper.

- Planning a “Use of DBs on PPPs” Workshop for the DRBF Conference in Lisbon, March 2021.
- Participating as speakers in various conferences: Infrastructure Investment Global Summit (Berlin/Oct. 2020); ESCL Conference (Sofia/Oct. 2021); PPP conference (Oman/Nov. 2020); PPP Week (Istanbul/Nov. 2020). Opportunities at conferences for Africa are also being investigated.

- Pursuing its promotion of DB use on future PPPs among sponsors, contractors, operators, legal firms, public administrations, and relevant professional associations.

- Identifying and communicating with “influencers” for promoting the use of DBs on future PPP projects in Australia

## CONCLUSION

The DRBF is a leader in the worldwide use of DBs on PPPs. The PPP Task Force welcomes input from DRBF members on PPPs where the use of DBs can be considered, as well as topics that members would like to see the Task Force address in the coming years as PPPs move into the mainstream of major project development, delivery and operations.

[Kurt L. Dettman](#) serves as the Chair of the DRBF PPP Task Force. For feedback and questions, he can be reached at [kdettman@c-adr.com](mailto:kdettman@c-adr.com)

## REGION 3 FOCUS

- Completing its White Paper, including:
  - Outline of PPPs in Australia
  - Approach to pass through or linked claims
  - How DBs can assist the operation of PPPs
  - Preferred model for use of DBs on PPPs
- Preparing an Addendum addressing the interrelation of pass through or linked claims on PPP projects with Security of Payment legislation/adjudication

## DRBF Task Force on Public Private Partnerships Current Members

### **Kurt Dettman (Chair)**

### **Linda Konrath (Vice-Chair Reg. 1)**

Hugo Fontirroig  
Larry Baker  
Adam Nicolopolous  
Aaron Toppston  
Chris Kane  
Matt Pollack  
Will Buchner  
Graeme Greene  
Bruce Reynolds

### **Serge Bodart (Vice-Chair Reg. 2)**

Lindy Patterson  
Rabab Yasseen  
Doris Chevalier  
James Perry  
Paul Taggart  
Leonardo Carpenteri  
Mark Moseley

### **Ron Finlay (Vice-Chair Reg. 3)**

Barry Tozer  
Sameh Ibrahim  
Pamela Jack  
Robert Fenwick Elliott

## Upcoming Webinars & Trainings



→ CALTRANS Workshop hosted online:  
21 - 23 October 2020. Full; join the waitlist at:  
<https://bit.ly/2H4vQe9>.

→ CFIA Training Workshop offered in Spanish:  
9-13 November 2020, flyer on the DRBF website  
calendar at [www.drb.org](http://www.drb.org). Register by contacting  
CFIA by email at [crc@cfia.or.cr](mailto:crc@cfia.or.cr).

Missed a Webinar or looking for  
a Video Recording?

Check out our “what’s new in the  
library” section on page 29

## Dispute Boards in Latin American countries: If not now, then when?

If there is one thing that characterizes construction projects, it is complexity. Complexity derived from the fact that over long periods of time, such projects involve a very wide range of people who have their own perspectives, priorities, codes, values and goals. The complexities have become even worse since the COVID-19 pandemic began. Since March of 2020, projects have suffered suspensions, delay, disruption and many other complications.

Aware of the harm that unresolved disputes can cause to the sector, the construction industry has been advancing the alternative dispute resolution (ADR) movement for a long time.

ADR's main goal is to allow the parties of construction projects to resolve their disputes faster and more affordably than litigation. However, and even though ADR's methods such as arbitration and mediation have been widely used in the construction industry, these methods still present some disadvantages. Arbitration, conciliation and mediation come into play only after the dispute has arisen; thus, while the process of dispute resolution is taking place, the trust of the parties may be greatly eroded and most of the time destroyed. This affects not only the successful completion of the project, but also the future work in the industry that depends on current and past business relationships.

Supporters of Dispute Boards (DBs) argue that they are very powerful when it comes to encouraging the parties to resolve problems on complex issues. They can create a new mind-set, in which they see themselves as part of the same team using time and limited resources efficiently in reaching mutual goals.

In these moments of crisis, Latin American countries will need the construction industry to contribute to boost their economies; and for that, they will not be able to afford delayed or failed projects.

As Latin American governments and the private sector prepare to embark on various critical infrastructure project initiatives, through public-private partnerships or otherwise, and looking forward to reactivate their economies with them, the implementation of project-based DRB dispute resolution can provide important savings and benefits too valuable to ignore, especially in these times of crisis.

The most important advantages that DBs can bring are:

### Effective Dispute Avoidance

One of the most remarkable benefits attributed to standing DBs is their preventive effect on disputes. The mere existence of an available dispute resolution mechanism that promotes agreement on problems that otherwise would be left unresolved and later referred to arbitration or litigation is of benefit, based on the fact that DB members are mutually selected, technically knowledgeable and experienced, impartial, and familiarized with the project from the beginning.

In addition, DB members, during the periodic meetings, ask the parties about potential problems, misunderstandings and claims. This leads the parties to focus on early identification and resolution of problems. In case of any impasse, they refer it to the DB for timely assistance. Even in times of the pandemic, DBs have been able to continue working with the parties, helping them to anticipate and to identify possible problems that may arise.

In my experience, the parties of a construction project with a standing DB will be less keen to take radical positions because they will not want to appear combative in front of the DB. This feature of DBs has been noticed by FIDIC: in its 2017 standardized contracts version, this organization included a Dispute Avoidance Adjudication Board as a key tool, and dedicates two separate clauses—20 and



**Marcela Radovic**

DRBF  
Representative  
for Chile

21—to claims and disputes resolution.

### Effective Dispute Resolution

The DB methodology allows for a better-informed dispute analysis because DB members have access to individuals with first-hand knowledge of the facts, and they can observe the field conditions or construction operation directly.

DBs can settle disputes in a shorter period of time—sometimes in as little as a few months. For instance, the FIDIC 2017 Red Book provides for the DB to issue its decision within 84 days or in such time as otherwise decided by the parties.

Because DBs have relatively flexible and informal procedures, the parties can use different means to go ahead with the dispute resolution procedure, including online tools. This feature allows for the resolution of matters that are evolving in real time, because DB members can meet virtually when unforeseen problems arise, even if travel is restricted.

In addition, the parties can address members of a DB directly, so they will not lose control of their own issues. Counsellors at hearings will normally play a less antagonistic role and be limited to legal aspects.

Additionally, having the same team of professionals hearing each dispute related to a given relationship or project can be valuable. This may be especially important in the context of disputes stemming from the effects of COVID-19, which may cause a series of associated issues as the crisis develops.

Finally, if we have a DAAB (Dispute Avoidance Adjudication Board) with binding decisions, instead of a Dispute Review Board with non-binding recommendations, the parties will obtain a response to their dispute that is contractually binding. This will give them more certainty and so allow them to move forward instead of waiting or losing time in further negotiations.

The idea of a DB is to increase the chances for disputes to be solved at the job site, as soon as

they arise and without escalating to higher levels.

The higher the rate of settlement of disputes based on a DB recommendation, the more effective the DB will be.

### Cost Saving

Transactional costs, such as legal and engineering consultants' fees, plus loss of productivity and time for owners and contractors, can damage the profitability of the construction business.

It appears from the vast experience acquired in more than 2,800 projects around the world that have used DBs that the earlier a DB is utilized, the lower the transactional costs involved.

In addition, using DBs will help the parties to avoid indirect costs derived from the diversion of manpower from projects to prepare the documental evidence and depositions; to be witnesses at trials, arbitration or litigation; and to give accurate information to the attorneys about the projects.

All these features contribute to make DBs an effective tool to promptly resolve a wide variety of issues that normally occur during construction projects. In these times of crisis, they could be very useful for parties that are facing ongoing disruption caused by COVID-19.

Accordingly, if Latin American countries want their construction sectors to really contribute to recovery of their economies, they need to incorporate new approaches to manage conflicts in their infrastructure projects. DBs have proven to be the most suitable.

Some countries, such as Perú, for example, have already changed their legislation to include DBs as a mechanism for public works contracts.

Other countries, like Chile, have incorporated mechanisms similar to DBs, such as the



Panel Técnico de Concesiones (Law Nº 20.140 , January 2010, an ad hoc Technical Panel to resolve the discrepancies that arise during the concession). But in doing so, they do not always respect the basic principles of DBs and so are not getting very good results in terms of efficiency and costs.

There is still a lot to do - both understanding the principles of DBs and acquiring the skills to implement them correctly are as important as changing our legal regulations. Because of that, the role of the DRBF in our countries should definitely grow.

Creating a critical mass of professionals in our construction sector that properly understand and believe in the benefits of DBs will allow us to make the necessary regulatory and cultural changes in this region of the world.

This will allow us to use DBs in a proper way and to obtain better results in our infrastructure initiatives.

The DRBF has, in many other countries, helped to create an environment of excellence, where construction professionals from different fields can learn and embrace the essence of DBs, use this tool to enhance relationships among its stakeholders, and improve the level of productivity.

The time has come for those of us who believe in the benefits of DBs to go further. It is time to help our countries to incorporate DBs in our regulations and in our paradigms.

Marcela Radovic can be reached at [mradovic@rywa.cl](mailto:mradovic@rywa.cl)

## **Forum Editorial Deadline**

Our readers love to hear Dispute Board success stories and challenges, and the latest industry news and events. If you have information about Dispute Boards, DRBF members, or an article to share, please let us know!

Contact Forum Editor Ann Russo at  
[arusso@drb.org](mailto:arusso@drb.org).

Deadline for the next issue:  
**15 November 2020**

## Welcome to New DRBF Members

Jonathan Bravo  
San Isidro, Peru

Edward Gower  
Ft. Myers, FL, USA

Ahmad Fatani  
Jeddah, Saudi Arabia

Cremona Ana-Maria  
Cotovelea, Bucharest  
Romania

Andrea Galhardo Palma  
São Paulo, Brazil

Mark Fuglevand  
Bellevue, WA, USA

Brandon Malone  
Edinburgh, UK

Julius Ciaccia  
Broadview Hts., OH, USA

Bill Barton  
Leeds, UK

Cristina Musat  
Bucharest, Romania

Felipe Hermosilla Torres  
Santiago, Chile

David Armstrong  
McCall, ID, USA

Robbie McCrea  
London, UK

Richard Bailey  
London, UK

Eric Britton  
Panama

Kiri Parr  
Pullenvale, QLD,  
Australia

David Alewine  
Anderson, SC, USA

Cristian Urzua  
Santiago, Chile

Ray Schmahl  
Glenwood Springs,  
CO, USA

Nino Tsaturova  
Tbilisi, Georgia

Anil Kumar Sinha  
Indonesia

Nicholas Di Folco  
Bucharest, Romania

Miguel Angel  
Clare Gonzalez Revilla  
Panama

Maria Gabriela  
Quintero Quiaro  
Panama

Ricardo Ongkiko  
Makati City, Philippines

Robert Gerrad  
Birmingham, Hong Kong

JC Miseroy  
Tampa, FL, USA

Mohamed Elhendy  
Cairo, Egypt

John Rempe  
Austin, TX, USA

Kitty Cohen  
Fresnoy la riviere, France

Fabio Almeida  
São Paulo, Brazil

Sana Mahmud  
London, UK

Paulo Nascimento  
Rio de Janeiro, Brazil

Vinicius Daher  
São Paulo, Brazil

Daniel Cheron  
Nakuru, Kenya

Conna Weiner  
Boston, MA, USA

Laura Brunasso  
Los Angeles, CA, USA

James Earle  
Los Angeles, CA, USA

Carlos Guzman  
Santa Tecla, El Salvador

Dante Gigueroa  
Chevy Chase, MD, USA

Peter Agar  
Edmonton, QLD,  
Australia

Ben Goss  
Oxted, UK

Hernando Torres  
Bogota, Columbia

Stacey, Cushner  
Newton, MA, USA

Steven Covert  
Belmont, MA, USA

Joyce Farias  
São Paulo, Brazil

Allan Scrace  
Wollombi, Australia

Eric Torres  
Fürth, Germany

Mike Aparicio  
Riverside, CA, USA

Ken Smith  
Phoenix, AZ, USA

Burak, Ovayurt  
Ankara, Turkey

Lakshmanan Ramaiah  
Chennai, India

Sue Callaghan  
St. Albans, UK

Ricardo, Tablas  
Atiguo Cuscatlan  
El Salvador

Rui Andrade  
Lisbon, Portugal

Ish Jain  
Mumbai, India

Donald Towey  
Giza, Egypt

Şinasi Bektaş  
Ankara, Turkey

Salvator Gravino  
Rome, Italy

Jeff Blinkhorn  
London, UK

Gustavo Henrique  
Carvalho Schiefler  
São Paulo, Brazil

Frank Menter  
Berlin, Germany

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who  
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like to  
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## Recent Online Recordings & Webinars

### DRBF FINANCIAL SUPPORTERS

#### Platinum

WeBuild

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Fenwick Elliot

#### Gold

Kiewit Construction

#### Silver

C2S Global

MBPCE

Peckar & Abramson

PS Consulting

Techno Engineering

The DRBF has continued to focus on moving projects forward by moving many events online, as well as creating new connection events with top industry leaders and partners. Whether you are signed up for our next event or looking to catch up on a past one, recordings are available through our online library.

- ➔ DRBF Annual Meeting: Monday 29 June 2020
- ➔ The Impact of Covid-19 on Dispute Board Operations (two sessions)
- ➔ Dispute Boards: Site Visits and the Covid-19 Pandemic
- ➔ Dispute Boards in MENA: Common Misperceptions Debunked
- ➔ P3 Water Summit Presentations
- ➔ CICA & DRBF Webinar: The Use of Dispute Boards in the Covid-19 Era
- ➔ How to Become a Dispute Board Member
- ➔ Os Dispute Board e os Conflitos Societários Webinar

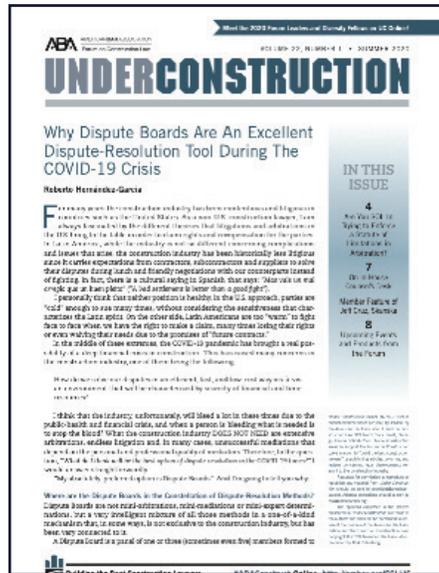
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# What's New in the Library?

The DRBF maintains a wide variety of papers, journals, conference presentations, articles, and other publications all written by DB professionals who hold industry ethics and topics in the highest regard. All material submitted is in support of the education and professional development of the DB community. From lessons learned on recent projects, developments in DB procedures, legislative developments, and more, the DRBF has created a robust toolbox of resources for you.

## New Library Additions:

➔ **Featured Article: Why Dispute Boards Are An Excellent Dispute-Resolution Tool During The COVID-19 Crisis** by Roberto Hernández-García



➔ DRBF Annual Reports 2017/2018/2019

➔ Webinar Summary - 1 June 2020: The Impact of Covid-19 on Dispute Board Operations

➔ Webinar Summary - 2 June 2020: The Impact of Covid-19 on Dispute Board Operations

➔ Best Practice Guidelines for Virtual Dispute Board Proceedings

➔ Checklist for Dispute Board Members in Preparation for Virtual Dispute Board Proceedings

➔ Final Report: Dispute Board International Conference & Workshop Jakarta, Indonesia, 15 - 17 January 2020

➔ Model documents for US & Canada: DRB Specification and DRB Agreement

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The conference will be online, but the connections will be genuine as we gather for the only global event focused exclusively on Dispute Boards. Join top experts for a unique opportunity to compare and contrast practices from around the world.