



DECEMBER 2016 ISSUE | VOLUME 50

THE Masterbuilder

JOURNAL OF THE INCORPORATED MASTERBUILDERS ASSOCIATION OF JAMAICA



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Volume 50, December 2016

IMAJ magazine is published once annually and is circulated to readers in the construction industry and affiliated industries. The articles represent the opinions of the writers and are not necessarily shared by the Association.

*Produced for the Incorporated
Masterbuilders Association of Jamaica,
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The Incorporated Masterbuilders Association of Jamaica (IMAJ) is pleased to publish its first online magazine. We have identified the need to be in line with the global network communication to widen our recognition as

one of the leading Building Construction Associations in the Caribbean.

The Association has a mission and continues to defend the construction industry, which is affected by the Government's failure to implement necessary regulations to protect it.

McHUGH-THOMAS

Competition from overseas contractors continues to 'parade' in the Jamaican construction arena, since they are able to build our highways with huge moratorium on interest rates. In addition, the local construction industry is experiencing 'overnight birth' of some unorthodox contractors who fail to follow the necessary regulations and to align themselves with the IMAJ.

Our theme is 'Effective Contract Administration', which was the focus in a seminar held in November 2015. At the seminar there were excellent presentations and some have been included in this magazine. The conclusion is that 'Effective Contract Administration' can only be successful if the arrangement for delivery is satisfactory to both parties. For the client, the product promised must be delivered with quality and on time; the contractor must be satisfied that fairness exists with



variations; disputes should be minimized and payments made in a timely manner.

On March 5, 2016, the IMAJ had its Annual Awards Banquet and the history of the construction sector was celebrated at this event. The guest speaker was

Professor Verene Shepherd, University Director of the Regional Institute for Gender and Development Studies and Professor of Social History at the Mona Campus of the University of the West Indies. We share her interesting and informative presentation entitled, 'Different Materials, Same Aim: Constructing the Physical and Mental Landscapes of Jamaica from 1952 to the Present by Architects, Builders and Historians'.

In concluding, I invite us (players in the industry) to reflect on these words: "Our homes today are afforded luxuries our ancestors living in primitive huts could scarcely imagine. Works of architecture are limited more by economics than they are by physics; less by climate than by image".

– Rosemarie A. McHugh-Thomas
Editor

Rose Hall Great House



Runway at Donald Sangster International Airport



Sandals Monetgo Bay

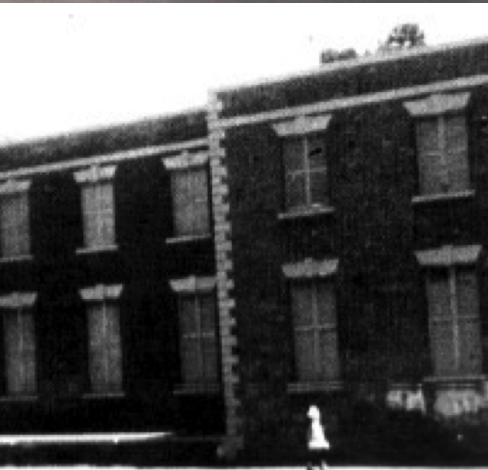


Sagicor Building in New Kingston.



Washington Boulevard overpass at Red Hills Road.





Old King's House in Spanish Town..

DIFFERENT MATERIALS SAME AIM

CONSTRUCTING JAMAICA

The following is an excerpt from the address by Prof. Verene Shepherd at the Incorporated Masterbuilders Association of Jamaica Awards Dinner, which took place at the Pegasus Hotel on March 5th, 2016. Prof. Shepherd is a professor of Social History & University Director, Institute for Gender & Development Studies at The University of the West Indies.



SHEPHERD

Mr. Chairman, President and members of the IMAJ, guests, awardees, a very good evening to you. I thank President Carvel Stewart for inviting me to address you this evening. The topic I have chosen is "Different

Materials, Same Aim: Constructing the Physical and Mental Landscapes of Jamaica from 1952 to the Present by Architects, Builders and Historians". ...

I want to congratulate you the members of the IMAJ on your contribution to the Jamaican economy and society over these many decades of your existence, not only in terms of your contribution to the percentage of the country's GDP, but also in terms of your focus on job creation, training, building standards, good industrial relations and policies to ensure stan-

dards. I also applaud the role you played in lobbying for transparency in tendering and contract processes and affordable housing for Jamaicans through the establishment of a National Housing Trust. Your interest in education and especially your scholarship programme testify to your sense of social responsibility towards the young people of this country as well as your interest in succession planning and capacity building. ...

Decade by decade

A decade by decade survey of your achievements will show the strength, value and relevance of your work, especially if one juxtaposes such work with the evolution of Jamaican society in the same decades. In the Decade 1962-1972, you were involved in the formation of the JCC and compiling and producing the Jamaica Standard Form of Contract, the Code of Procedure for Selective Tendering for the Building and Construction Industry and the Standardization of Measurement.

During the decade 1972 -1982 – the second decade of our independence, you were pressing for affordable housing for the population and lobbying for the establishment of the National Housing Trust (NHT). This was also the decade in which our political leaders were introducing policies aimed at attenuating and rectifying the

inherited economic inequalities. Related to this was an ideology of social reform to protect the weakest sections of the population, and to promote the welfare of the poor through subsidized food, housing, education, health, and other important social services. ...The period 1982 to 1992 saw the IMAJ paying attention to awarding excellence and outstanding service in the construction industry; the construction industry was experiencing a rare financial boom, counterbalanced with the Contractors' Levy Act which caused you some pain and anxiety.

You would spend the decade 1992-2002 – during which you reached 50 as well as mourned the passing of TAD Smith, paying attention to Vocational training, lobbying the PJ Patterson Government for the implementation of a National Construction Policy and bringing other associations under your umbrella.

In the period 2003-2013, you developed the construction manual, implemented a scholarship programme for children of construction workers, established the Information and Resource Centre and formed links with the region. The cement crisis was at its peak in the early part of this decade and so you sought cheaper sources and battled tariff barriers and monopolies. You saw the realisation of a safety manual and the changes to the 2% contractor levy and you kept certain critical issues before the Jamaican public, such as government support for foreign contractors under preferential arrangements to the disadvantage of local contractors.

Achievement and rebuilding

Of course, all of these achievements did not come without challenges, including rebuilding after natural disasters, competition with suppliers of building materials as well as competition with foreign contractors. In fact, your Association was born at a turbulent time in Jamaican history ... after the 1951 Category 3 hurricane Charlie... The hurricane produced Jamaica's deadliest natural disaster of



Devon House, 1891 - Example of Georgian architecture.



Mona Heights Development, 1958.

the 20th century, causing more than 152 deaths and \$50 million in damage. It took resilience, resolve and lots of money to rebuild a damaged infrastructure, but it was done; just as your predecessors had to do after the Kingston earthquake and fire of 1907 – meaning a necessary understanding by builders, architects and contractors of what material and designs best suited a country prone to earthquakes and hurricanes.

Part of the understanding of what

building standards should be and what types of material and structures can withstand high winds, heavy rains, fire and other natural disasters, not to mention what your clients will find aesthetically pleasing, lies in the pages of History. You have both benefitted from and built on the legacy of, the indigenous Jamaicans, the Africans, Spaniards and the English.

The Jamaican urban and rural landscape, especially in terms of building designs and construction material, has



Culture and Architecture in Burkina Faso. Source: www.ritebook.in



Example of Modified Adinkra Symbol in Jamaican Grill Work. Source: Grillwork: jackmandora.blogspot.com; Symbol: "Love" – Adinkra symbol

changed from the palm leaves and sticks of the indigenous Tainos, through the wattle and daub and thatch of the Spaniards and the more elaborate brick structures in the late Spanish and early English periods of colonization to a combination of both brick and stone buildings in the formal tradition in the Jacobean and Georgian styles in the late 17th and 18th centuries and the timber and board structures of the folk... While Georgian did not fade away... [there was] a sort of Jamaican Georgian or picturesque classicism adaptation to take the climate and natural disasters into consideration; according to the work of historian and architect, Dr. Patricia Green, there was a period of creolization, not only in the more obvious areas of language, performing arts and dress, but also in the physical and social infrastructure, a trend that continued into

the 19th and 20th centuries.

Decolonization movement

Since the end of British colonialism, the local construction industry ... moved away from the indigenous, classical Jacobean and Georgian influences to a more modern physical landscape, reflective of post-modern North America ... There has also been an effort to preserve the architectural heritage of the island through repairing the historical buildings. Some of this preservation is in the effort to promote heritage tourism. What I find problematic about heritage tourism is that there is an imbalance in the reconstruction and preservation of planters' houses and those of the African ancestors.

In fact... indigenous forms and African forms have largely disappeared. The closest resemblance to the architectural

style of the Taino and African is the gazebo which mimics Taino and African huts. There is no conscious effort in Jamaica to represent Africa in the private or public buildings we construct. We have nothing like this building in Burkina Faso, of intricately embellished earthen architecture to increase interest in cultural tourism.

As I perused your history over the 5 decades since 1952, I could not help thinking about the historical context within which you were developing and the ways in which our respective professions – yours and the historians' – pursued similar goals using different media. Your industries were moving away from the colonial styles and designs towards a more creole genre. You were creating and recreating the physical landscape. You were calling for affordable housing; better benefits for construction workers and better educational opportunities for their children. You pressed for fairness and equality in the terms given to foreign construction workers vis-a-vis local ones.

So, whether consciously or not, you were part of the process of decolonization. Indeed, the Decade 1952-1962, the decade of T.A.D. Smith's honorary organising secretaryship, and the Presidency of Percy L. Abrahams, represented the height of the decolonization movement in Jamaica as colonised people were seeking pathways to self-determination, experimenting with the Federation of the West Indies, and after that failed in 1962, progressing to independence.

Concern for social issues

During the first decade of our independence, 1962-1972, during the Presidency of A.J. McGregor, the nation of different classes and ethnic groups was trying to understand this thing called independence, where the majority African population was asserting its right to be but all the time confronting prejudice and persecution. Historians were becoming scholar activists, looking out for any signs of injustice and lobbying for human rights. And there were many such causes,

including the Coral Gardens massacre of Rastafari and the declaration of Historian Walter Rodney as persona non grata in 1968, which led to his exile from Jamaica.

While architects, contractors, builders and construction workers were showing a concern for social issues and refashioning the physical landscape of post-colonial Jamaica, Historians were also trying to create our own existence in a post-colonial state; trying to refashion the mental and ideological landscapes. At the same time, in the post-colonial Anglophone Caribbean, governing elites were engaged in a process of national self-creation prompted by a recognition that, in Eric Hobsbawm's words, "the mere setting up of a state is not sufficient in itself to create a nation". An important component of this national project was the elimination of most of the symbols that helped to perpetuate an imperial mentality – birthdays of monarchs as national holidays, British education and curricula; the reciting of patriotic poems and the singing of patriotic songs like *Rule Britannia*.

There was a movement to rename streets, highways, parks and buildings; create national symbols like flags, anthems, and pledges; institute our own national holidays [e.g. Emancipation Day, National Heroes' Day, Labour Day] as well as institutionalize National Heroes by which governments identified and transformed historical figures into markers of national identity.

Historians, increasingly trained in the region, conscious of the African proverb "Until the lion tells his story, the story of the hunt will always glorify the hunter" began to dethrone the colonialist history of *Rule Britannia* in favour of a more liberating narrative of self. For the early accounts were inherently conquistadorial, racialized and Eurocentric – written as they were by those who were interested in projecting their own ideology of Africans and indigenous peoples. Ideologically, they were anti-African and supportive of colonialism.

So in the post 1945 period, revisionist



Fig 5: Freedom Monument, Montego Bay, Jamaica. Source: www.jnht.com

histories began to correct the prevailing narratives. The end of World War II, the escalation of the decolonization movement, the globalization of Western culture and the re-empowerment of non-Western states, all signalled a new intellectual age. The new writers questioned the essentialism of traditional historiography and the master narrative imposed on former colonized peoples and introduced their own discursive practices. In the post-1970s period for example, there were renewed attempts, not always successful, to dethrone the old intellectual absolutisms and introduce "sociologies of knowledge" grounded in subaltern studies. That is still our continuing project and we carry out this revisionist project through academic writing, textbook writing; teaching and outreach to schools and the wider public.

But historians have also become interested in construction – not of houses and public buildings, but in sites of memory, in monuments to cement the presence of ancestors on the Jamaican landscape. As part of this 'iconographic decoloniza-

tion project', historians of the Caribbean have been supplying the evidence for, and influencing the construction of monuments in honour of anti-slavery and post-slavery activists in our Caribbean. The form and shape of these symbolic markers vary. But this process of mapping and re-mapping the cultural landscape has also involved pluralizing the objects and subjects that we either select for historic preservation or erect for honour and commemoration. So we now have monuments that inscribe the names – not just of the leader of a movement, but all those who were in the movement. An example is the Montego Bay Freedom Monument. [Fig 5] We have been excavating and exposing the names of as many of these enslaved idealists as we can find; idealists who believed in the universality of freedom and finding appropriate ways to memorialize them. In the process, we have been ensuring that we transfer historical knowledge from texts to public spaces.

I am not sure what your focus is in the current period. But in the current period,

historians' attention is firmly on reparatory justice. Our rationale includes evidence related to your field. As we put the evidence together we include the way in which Africans contributed to the construction of the public buildings (historic churches, House of Assembly, Old Court House and Kings House in Spanish Town); the plantation houses like Seville, Rose Hall, Cardiff Hall, Prospect Pen (now Vale Royal) and so many others. We also include the ways in which the money generated by our enslaved ancestors' labour allowed the planters and merchants and missionaries to



Fig 6: Harewood House in Leeds, UK. Source: www.weetwood.co.uk

afford their elaborate structures and to recreate this extravagance in the United Kingdom, manifested in structures like Harewood House, home of the Lascelles. [Fig 6].

To maintain their lifestyles after slavery was abolished, planters were able to fall back on the £20M pounds awarded by the British State to 46,000 of them as compensation for the loss of "property", a figure representing a staggering 40 per cent of the Treasury's annual spending budget and, in today's terms, calculated as wage values, equates to around £16.5bn/\$23B. Hilary Beckles calculates that if the Apprenticeship System of unwaged labour or neo-slavery, imposed from 1834-1838, is added to this, the total figure would be more than double that sum. Among the beneficiaries was the immediate past Prime Minister of the UK, David Cameron whose slave-owning ancestors were Sir James Duff, the 2nd Earl of Fife, who owned Grange sugar plantation in Westmoreland. Added to this, the period 1838-1938 was marked by a century of racial apartheid and therefore by protests to end it.

Each occupation, each profession is important. The building of the physical landscape is as important as re-mapping the mental landscape. There is room for all of us; but I also hope that knowledge of the past will allow a collaboration among professions. When builders and architects for example, know their history and appreciate their ancestors, then we will begin to see more evidence of that historical knowledge in buildings we construct.

Of course, the creative disciplines are not as valued as the STEM subjects these days. But all I have to say is that most 'stems' will wither if they do not have firm roots.



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TO BUILD, OR NOT TO BUILD

10

QUESTIONS YOU SHOULD ANSWER



STEWART

This question arises in the minds of potential developers who may have a particular need or desire, or may just be speculating on possibilities for future enhancement of their status. These possible developers may be the government (the largest of all), private sector companies, other institutions and individuals. Any or all of them may build for their own use or for sale to others – to provide housing and commercial entities. The question is raised mainly out of necessity.

GOVERNMENT:

The need to accommodate personnel who provide specific services or for infrastructural solutions to community needs will usually trigger its contemplation.

THE PRIVATE SECTOR...

ponders the adequacy of existing working space or space to be acquired. Private sector organizations also examine the potential of building for sale or rental to others.

THE INDIVIDUAL...

usually needs housing. Individuals may also speculate on providing housing or other types of accommodation for others.

THE POTENTIAL DEVELOPER...

must have land on which to build or intends to acquire land. The land must be suitable for the particular development or use. Factors which must be examined to enable decision making include: location, topography, soil type, proximity to utility services and general ambience; for example, whether the existing community is conducive to the intended use.

- The developer must determine the requirements and establish a budget incorporating the estimated costs. The government may proceed purely on the basis of need. Private sector organiza-

tions normally incorporate the budget in a business plan, which projects return on investment. Individuals mainly have a need and may proceed on the basis of affordability only.

- Persons contemplating the question must engage professional services to assist in its determination. These consultants will advise on all aspects and phases of the development. They can either advise on the suitability of land to be acquired or already owned. In some cases the soil type has to be investigated; however, in all cases the topography should be examined.

- The use of the land is next established; either by an architect or engineer, depending on the facility to be built. Thereafter, the project is fully designed. During and at the end of the design process, approvals may be sought. When all approvals have been obtained, construction may take place.

- The cost to build the approved designs should be fully estimated. Costs should have been constantly monitored during this process to ensure the availability of sufficient funding.

- A contractor should be engaged to construct the development. As would have been the case with the other professionals, the proper procedure for identifying and selecting the contractor should be pursued.

Before you build, be sure to ask:

1. Is there a need to build and what is to be built?
2. Is land available, whether owned or to be purchased?
3. Is the land suitable?
4. What are all the cost elements on which to budget?
5. Will the cost be justifiable or is there a more economical solution?
6. Will a design solution provide more detailed and better cost estimating?
7. How are the design consultants selected?
8. Will the design be approved?
9. Will sufficient funding be available to build?
10. How is the contractor selected?

- Carvel A. Stewart, President, Incorporated Masterbuilders Association of Jamaica

EFFECTIVE Contract Administration

CONTRACTORS VS. CONSULTANTS

The construction industry is one of the largest segments of business in Jamaica with an annual expenditure over the last 10 years of approximately one hundred billion dollars, employing more than ninety thousand persons with a contribution of approximately 9% to the country's gross domestic product (GDP). Construction is the realization phase of the civil engineering process, following conception and design. It is the role of the contractor to turn the ideas of the owner, planner and designer into physical reality.

In recent times, construction projects are becoming larger, more complex, and time consuming, requiring the

interactions of many different persons to accomplish.

All projects must be completed in accordance to specific plans and specification and other contract restrictions such as: Soil type, Weather conditions, Human resource factors and Social and political climate.

In manufacturing, resources are brought to a factory with a fairly controlled environment and a similar situation applies to a hotel operation. However, in construction the project is usually implemented in an uncertain environment.

THE EFFECTIVE ADMINISTRATION OF THE CONTRACT IS ESSENTIAL TO ALL!



A CONTRACTOR'S PERSPECTIVE



MULLINGS

It is the duty of the contractor to predict and manage the possible situations that may be encountered and to develop contingency strategies accordingly.

What is Contract Administration?

Contract Administration is the monitoring and enforcement of the terms of the contract. This involves numerous daily decisions that are based on interpretation of the contract documents.

CONTRACT ADMINISTRATION GENERALLY INCLUDES:

- o Invitation and processing of tenders
- o Preparation of contract documents
- o Seeking instruction from the client in relation to the project
- o Issuing instruction such as variations, use of prime cost sums, etc.
- o Evaluating claims
- o Preparation of progress reports
- o Reporting to the client
- o Issuing payment certificates
- o Completion certificates

Goals of Contract Administration

Regardless of the size and/or complexity of the project, most construction teams have the same performance goals:

- o **Cost:** Complete the project within the budget

- o **Time:** Complete the project within the contract period
- o **Quality:** Perform all work, meeting or exceeding the specifications
- o **Safety:** Complete the project with zero accident
- o **Conflict:** Complete the project with zero dispute

Achieving These Goals

To achieve the above goals and a successful project, the contract administration includes the following basic functions:

A) ESTABLISH AND IMPLEMENT CONTRACT TERMS

Projects are considered successful when the work is done:

- To the required quality
- Within budget

Next page>>

It is the duty of the contractor to predict and manage the possible situations that may be encountered and to develop contingency strategies accordingly.



EFFECTIVE CONTRACT ADMINISTRATION

>>Continued from previous page

- Within the agreed time frame, and
- The contractor makes fair returns for his effort.
- If these criteria are not achieved, one of the parties is likely to be dissatisfied and it may result in disputes.

Success is unlikely when:

- The construction period is too short
- Too low tender is accepted

The contract administrator must therefore guide the client in establishing realistic terms and contract conditions. Having established these terms, he must now enforce them in a fair and impartial manner.

B) BE AWARE OF RESPONSIBILITIES

- Contracts place responsibilities on the contracted parties. Good contract administration will ensure that the parties are aware of their obligations.

- The contract administrator must encourage each party to deal with problems expeditiously and resolve them as allowed in the contract.

C) COMMUNICATE INFORMATION

- Good communication is essential in ensuring information is issued in a timely manner. This will allow work to proceed as programmed and minimize delays, claims, etc.
- Timely communication allows both sides to apply the most desirable method of overcoming related problems.
- Late communication is likely to result in time delays and additional costs, which may lead to claims and disputes.

D) CONFRONT AND RESOLVE PROBLEMS

- Reluctance to confront problems often leads to more problems. Early attempt to deal with problems usu-

ally allows for alternative methods to be used to execute the work.

- Contract administrators at times try to ignore or reject legitimate claims because they do not want to upset the client. However, disputes will have to be resolved and it is much better to deal with them at an early stage so that the problem can be at least minimized.

What makes a GOOD contract administrator?

In order to achieve the above objectives, a contract administrator must be competent, resolute, objective and a team player.

- He must be competent; In order to gain the respect of those he deals with and discourage the abuse of authority and/or situations likely to lead to unnecessary disputes.
- He must be resolute; to ensure that matters are dealt with as required by

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the contract.

- He must be objective; so that within the contract parameters, the interests of both the contractor and the client are balanced.
- Finally, he must be a team player; for however good he is, he cannot achieve his task of successfully completing the contract on his own.

A Contract Form is No Substitute For Good Contract Administration

As construction projects become larger and more complex, the potential for problems will increase.

After problems have arisen, many clients conclude that the contract conditions are inadequate and that additional conditions would have avoided these problems.

Hence, more and more clients and their agents alter or add new conditions (particular applications), hoping to tilt the scale in their favour.

Some of these conditions are:

- Extended payment period (for example, 56 days to make payment on a 90-day contract)
- Reduced mobilization payment (5% instead of the standard 10%)
- Exclusion of contractors, should they threaten legal action to resolve thorny issues
- Ridiculous interest payment for late honouring of payment claims
- Unrealistic maintenance period
- Contractor to be responsible for designer's inaccuracy
- Contractor to be responsible for poor or inaccurate geotechnical information

However, these unending alterations of the tried and proven contract terms do not themselves resolve contractual problems. Whatever form of contract is used, it

is essential that it is administered properly. Poor contract administration is likely to result in claims and disputes.

Conclusion

Good and effective contract administration is essential to the success of construction projects. It should serve to ensure that both the client and the contractor understand and uphold the contract, that information is communicated effectively and that potential problems are dealt with efficiently.

A good contract administrator's presence will be felt by the team as a supportive and driving force in meeting the contract goals. Similarly, a poor contract administrator will more than likely negatively impact the project outcome.

– Don Mullings, Managing Director,
M&M Jamaica Ltd.



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A CONSULTANT'S PERSPECTIVE

By Raymond McIntyre, MD, Apec Consulting Ltd.
Chairman of National Contracts Commission

The responsibilities of a contract administrator can be awesome and onerous, and this is not often recognised by the participants to the contract. It is therefore important for the Client / Employer to ensure that whoever is placed in this vital position possesses the required



McINTYRE

qualities to protect both his technical and contractual interest for the period of the contract. Consultants undertaking the duties of contract administration must be cognizant of the need to exercise a duty of

skill and care to the parties as they can be held liable for conduct considered to be reckless and which results in unreasonable harm or loss as a result of their action, inaction or their partiality.

PRE-CONTRACT

Pre-contract procedures begin with an accurate representation of what is required in design, time and cost and on the selection of the best contract for the delivery of the product. The need to assemble a contract administration team (management team) is determined by the scale, nature and complexity of the project, the significance of the procurement and the need to comply with the client organization policy. All parties should be made aware of the requirements of the works; e.g. specifications, the nature of the work, the environment, time for delivery, liquidated damages and how payments will be made for works done.

THE RIGHT CONTRACT

Choosing the most appropriate form of contract is essential to successful project implementation and can have significant

impact on contract administration. Forms of contract vary considerably; depending on the client organization, whether public or private sector, and on the scale, nature and complexity of the works involved.

In the private sector in Jamaica, the main building works contracts are the Construction Industry Council (CIC) forms with quantities; and the civil works contracts are International Federation of Consulting Engineers (FIDIC) based re-measurement contracts. The public sector utilizes CIC, FIDIC and GOV forms. There are some government agencies which have crafted their own forms of contract. There is also increasing use of Design Build Contracts and in Jamaica, this is largely unfamiliar territory.

Many projects in Jamaica are funded through multi-lateral agencies such as the World Bank, the International Development Bank (IDB), the Caribbean Development Bank which all have different, though similar forms of contract. Bilateral agreements also involve national agency (e.g. USAID, CIDA, UK, EU, China) forms of contract, some of which can be extremely detailed and demanding.

PREPARING TO TENDER

The efficient and successful implementation of works contracts is directly dependent on the accuracy and relevance of the working drawings, specifications and bills of quantities prepared by the consultants, as this will minimize the need





TENDER & CONTRACT AWARD

On the assumption that the bidding documents are well prepared and appropriate, tender action should follow in a fair, efficient and transparent process. For some projects, it may be necessary to have a pre-bid conference or on-site meeting with prospective bidders. Procedures should be established to enable clarification during the tender period and thereby avoid problems during construction.

Some observation regarding the tender process:

- The evaluation processes are often far too lengthy and sometimes burdensome, quite often due to myriads of approvals and the lack of clarity and co-ordination in the tender documents.
- Many contractors do not pay close attention to the instructions to bidders and as a consequence, prevent themselves from being selected. This results in a loss of resources to all. (Common failings include tender bonds not stamped by the Tax Department).

Tender Action ends with the selection of the 'best' evaluated contractor. The administrator's role is to ensure that the conditions of the contract are fulfilled in terms of its time, quality and cost objectives.

CONTRACT SIGNING

Contract signing is generally preceded by the selected contractor providing various documents critical to the efficient conduct of the contract – performance bonds, insurances, construction schedules, cash flow projections, site personnel etc. The form of performance bond or guarantee is often an issue with the bonding agencies not recognising that the bonds are for the performance of the entire contract, up to the final certificate and not only to practical completion.

Nothing is worse in contract administration than miscommunication.

Pre-commencement protocols should be established for indexing and dating all documentation, and methods imposed to ensure unmistakable communications.

CONTRACT STRATEGY:

An effective contract strategy should include but be not limited to:

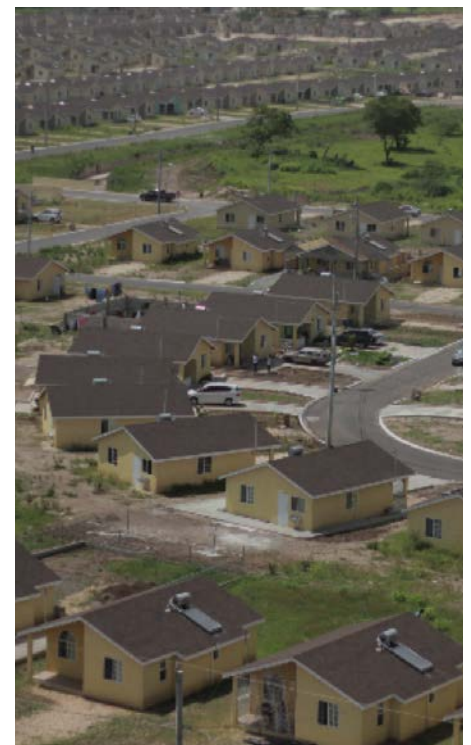
- Scheduling of meetings
- Scheduling of payments / or submissions for payment
- Procedure for request for changes / variations {who may issue and how }
- Procedure for handling disputes
- Issuance of certifications
- Ensuring compliance to statutory authorities (Boundaries, Height, Health and Safety Regulations)

At this time, the contractor should have examined all the contract drawings, specifications and quantities to detect any conflicts, errors and omissions. These should be brought to the attention of the contract administrator for resolution.

Next page>>

for variations and reduce the likelihood of disputes. Provisional sums ought to be kept to the absolute minimum.

In order to avoid later claims for extra time and cost, the Contract Administrator should verify the provision of all site and geo-technical details. How often have we seen projects halted after possession of the site because of boundary or site details? Importance of pre-empting contractor's site queries cannot be over emphasised. Associated with the contract / tender documentation are the bidding documents and the bidding procedures that are to be used for the selection of contractors. The tender methodology varies according to the nature and requirements of the client.





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CONTRACT IMPLEMENTATION

Once construction has begun, it is important for all to understand that the contract is to be implemented with all involved working as a TEAM. The architect / contract administrator should not chastise the contractor or his sub-contractors, and vice-versa. The contractor must understand that ALL components of the contract – including the work of his suppliers and sub-contractors – are his direct responsibility. Once the work is detailed and specified before the work starts, there can be no excuse or reason for the contractor not to proceed regularly and diligently.

Good communication between construction site and project management offices must be maintained. The administration/ management team would consist of:

- Architect / Engineer / Contract Administrator
- Project Consultants: Project Architects, Engineers, Quantity Surveyors, Technician
- Clerk of Works / Resident Engineer

CLERK OF WORKS/ RESIDENT ENGINEER

The Clerk of Works / Resident Engineer is usually appointed by the Employer and will be responsible for:

- maintaining daily and weekly site reports
- monitoring and recording weather conditions, equipment usage and downtime, major materials delivered to site, category and number of tradesmen employed, labour disturbances, accident reports and visitors to the sites
- recording all occurrences and activities affecting the works
- ensuring that the contractor prepares as-built drawings in a timely manner.

PROJECT CONSULTANTS

The Project Consultants would organise and hold regular site meeting and other visits to:

- inspect the works and check for compliance with the conditions of contract
- carry out technical meetings with the contractor, sub-contractors and others concerned, to review progress and discuss any problems which might have arisen
- make such additional visits as might be required to deal with emergencies or unforeseen circumstances.

Reports of each site meeting/ visit to record reasons, information obtained, instructions issued, information provided and the like should be submitted to keep the Employer fully informed.

CONTRACT ADMINISTRATOR

During the course of construction, the Project Architect / Engineer / Contract Administrator, assisted and supported by the other project consultants, would be responsible for the following:

- Monitoring delivery of materials to site.
- Maintaining communication between all parties.
- Arranging and presiding at regular site meetings to record progress and all matters.
- Reviewing and approving shop drawings, samples and other submissions by the Contractors.
- In collaboration with the Quantity Surveyor, receiving and evaluating claims and preparing interim certificates for payment by the Employer
- Authorizing other project expenditure, if required by the Employer.
- Obtaining the Employer's approval for, issuing and approving all Change or Variation Orders in accordance with the contract conditions.
- Ensuring construction works, including specialist finishes, conform to acceptable industry standards and contract specifications.
- Identifying sub-standard construction work and bringing it to the contractor's attention.
- Ensuring work conforms to drawings/ specifications.
- Ensuring that required tests to relevant sections of the works and equipment are conducted in accordance with contract conditions.
- Receiving and responding to, on a timely basis, all contractor queries recorded on pre-numbered Requests for Information (RFI's).
- Co-ordinating the preparation of the schedules of RFIs, indicating their status.
- Identifying critical information required and ensuring all verbal instructions are subsequently confirmed by written confirmation.
- Receiving, evaluating and making recommendations on behalf of the Employer for all claims submitted by contractors with respect to variation orders, extensions of time, with or without loss and expense, acceleration, etc.

Next page>>

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TEAM LEADER

The Team Leader will submit monthly and other reports to be agreed with the Employer to provide information on:

- Construction Schedule, progress of the works and performance of the contractor(s).
- Causes for delay and the measures required to recover lost time.
- Financial reports, cash flow projections, estimated completion costs and additional costs (if any).
- Assessment of the project status and recommendations for any action by the Employer.

Practical Completion

The commissioning and handover process should start some weeks before Practical Completion is reached. In this way, the checking and testing required is spread over sufficient time to allow proper attention to detail.

The Team Leader will co-ordinate and conduct the following procedures:

1. Carry out preliminary inspections of work as job completion approaches.
2. Prepare separate lists of defects and incomplete items.
3. Arrange completion meetings to discuss and emphasise outstanding items.
4. Repeat (1), (2) and (3) until lists have diminished to nominal proportions.
5. Arrange Practical Completion Inspection attended by representatives of the Employer, Contractor and Consultants.
6. Prepare and circulate detailed schedule of outstanding defects.
7. Operate and 'test' run all mechanical and electrical equipment, and note any malfunction for correction.
8. Where appropriate, collect keys, guarantees, operating and maintenance manuals etc., and hand over to the Employer.
9. Obtain as-built drawings, warranties and preventative maintenance schedules from the Contractors.
10. Issue Certificates of Practical Completion.

FINAL COMPLETION

During the Defects Liability Period, the Contractor and his sub-contractors are required to rectify all defects listed at the time of Practical Completion. They are also required to make good any latent defects or faults which subsequently develop during the same period. The Consultants will carry out a Final Inspection and issue a Final Completion Certificate after all defects have been made good.

In this stage, the following activities also take place:

- Preparation of 'as-built' drawings in electronic or other format (using marked-up drawings provided by the contractor). The extent and content of these will be agreed with the Employer.
- Preparation of Final Accounts by the Quantity Surveyors. This will involve the final measurement of work done and the assessment of loss and expense or other claims.

Upon acceptance and signature of the Final Account by all parties and issue of the Final Certificate of Payment, the consulting services

under the project will be completed.

The two areas of contract administration that are often cause for concern are: the issuance of variations and the assessment of extension of time.

Variations are almost inevitable in construction contracts. They should not necessarily be seen as causes for concern but should be effectively managed to ensure that the product delivered is what was expected by the client. Every design change has cost effect and major cost changes can affect the viability of the project. Where changes are not as a result of professional error, the need to communicate with both parties to mitigate the effects will be necessary.

Assessing extensions of time must be done according to the terms laid out in the contract and reasons under which extensions are given enumerated. The Administrator must ensure due notices are received in time. The records kept by the administrator or in the site diary will ensure that any assessment given can be substantiated; e.g. Rain days, days on which materials were unavailable etc.

CONCLUSION

Effective contract administration is successful if the following is achieved:

- The arrangement for delivery is satisfactory to both parties, and the expected value for money is being realized by all.
- The client is satisfied that product promised is being achieved at the quality specified and that the product will be delivered on time.
- The contractor is responsive and is assured of fairness in the assessment of variations.
- Disputes are minimized, efficiencies are realized and most importantly, there are no surprises.
- Both Contractor and Consultant are paid in a timely manner in accordance with their respective contract conditions.

– Mr. Raymond McIntyre, Chairman,
National Contracts Commission & Principal at APEC Consultants

TRIBUTES OF SERVICE

Alva Melford Herron-Muir

The Executive Council, members and staff of the Incorporated Masterbuilders Association of Jamaica remember our brother and friend, one who was accorded the status of Life Member of our Association.



Al Herron-Muir was a graduate of the Kingston Technical High School and the Indiana Technical College in the United States of America. He returned to Jamaica in 1957 and secured employment with Associated Engineers as Supervisor of soils engineering; while there, he

supervised paving contracts and operated as Sales engineer. Between 1964 and 1967, he was manager of Asphalt Paving Co. Ltd. In 1968 Al founded Roads & Structures Ltd., thereafter setting up Roads & Structures Incorporated in 1978.

Al's association with the IMAJ spanned many decades, commencing in 1975 when through his company Roads & Structures Ltd., he joined our Association. He contributed significantly to IMAJ's development as well as to the wider construction industry.

He served as the Association's 2nd VP in the administration of 1996-97, and represented the Masterbuilders at the Bureau of Standards on its Paint and Surface Committee. Al served well on many committees of the Association and was at one time Chairman of the IMAJ's Dinner Committee. We specially remember the discussions concerning long overdue uncollected monies for the Association's Annual Dinner and Al's favourite comment, uttered with some disgust, "That passed Port Royal long time".

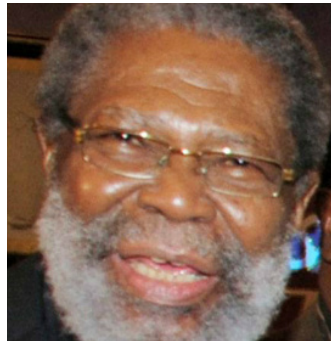
In 2003 Al served as the IMAJ's Technical Coordinator, offering technical advice to the public; he was an active member of the Executive Council until he became ill.

A principled and dispassionate man, who loved badminton, travelling and music, Al took as his motto, 'The Golden Rule'. He was a jovial, humorous and loving person. We at the Incorporated Masterbuilders Association of Jamaica are grateful to have known him. He has 'fought the good fight'.

– IMAJ, September 26, 2015

Hopeton Caven

The Incorporated Masterbuilders Association of Jamaica (IMAJ) joins with the family, friends and members of the trade unions in mourning the passing of



Mr. Hopeton Caven, a distinguished son of the soil and accomplished leader in the trade union movement on behalf of Jamaican workers.

In 1956, Hopeton (as he was fondly known to us) formerly head of the Trade Union

Congress (TUC), played an integral part in the formation of the Joint Industrial Council of the Building and Construction Industry (JIC) – a collaboration between the Unions and IMAJ. He was instrumental, with his union partners and the IMAJ leaders, in establishing the Labour Management Agreement for the Building and Construction Industry under which the labour rates and working conditions for workers within the industry were developed. He served faithfully, creatively and with dedication in this capacity until 1976. His participation in this process was invaluable and served to inspire his colleagues, successors and the construction leaders with whom he interacted, even after he moved on.

He made sterling contributions to the advancement of the labour movement. His experience served to instruct younger members of the Unions and helped to resolve disputes that may otherwise have been insoluble. For his service to the nation he was awarded the Order of Distinction, Commander Class in 2001.

He continued to serve as President of the TUC and Vice-President of the Jamaica Confederation of Trade Unions up to the time of his brief illness and death.

We salute you, Hopeton. May you rest in peace and light perpetual shine on you.

Walk good, friend.

IMAJ 2016 AWARDS BANQUET

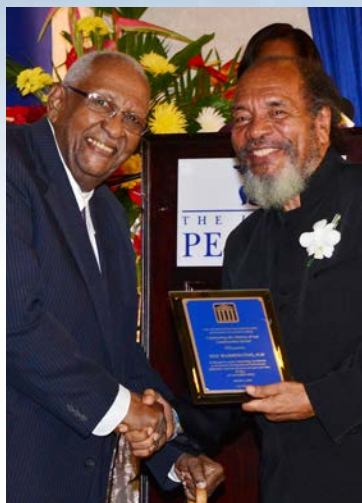
On March 5, 2016, the IMAJ honoured these outstanding persons and their contribution to the industry.



Prof. Verene Shepherd, guest speaker at the Incorporated Masterbuilders Association of Jamaica Awards Banquet.



A section of the audience at the Incorporated Masterbuilders Association of Jamaica Awards Banquet.



Ted Warmington receiving an award for his outstanding contributions.



Secretary/Manager Oreta Brooks (standing) and Petrice McDonald (seated) assist guests to register at the IMAJ Awards Banquet.



Daughters of Herald 'Moxy' Morrison, Lisa and Mala, receive an award on behalf of their father for his outstanding contributions. Mr. Morrison passed away on March 4, 2016.



At left, Delroy Alcott, Managing Director of WIHCON, receives Special Carib Cement Award from Alejandro Veres, General Manager, Caribbean Cement Company.



Roosevelt Thompson receiving an award for his outstanding contributions.



Raymond McIntyre receiving an award for his outstanding contributions.



Barry Beckford receiving an award for his outstanding contributions.



Tommy Lyew receiving an award for his outstanding contributions.



Basil Nelson receiving an award for his outstanding contributions.



Maurice Stoppi receiving an award for his outstanding contributions.



Brian Goldson receiving an award for his outstanding contributions.



Richard Lake receiving an award for his outstanding contributions.



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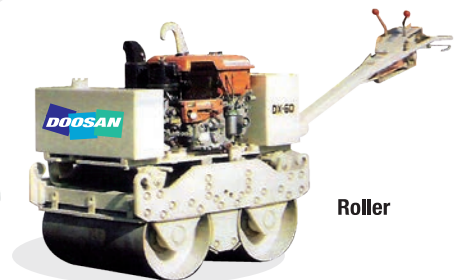
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There is no question that financing construction projects is more risky than providing mortgages to home owners. As a result, the interest rate for construction financing carries a risk premium to cover additional risk inherent in the business.

Therefore, based on the nature of construction projects, there are key factors which are to be considered by the financier, to determine if a loan is to be granted for the development, as well as the interest rate to be applied.

Prospective Borrowers

To successfully qualify for construction lending, the borrower must have:

- A solid reputation and track record
- An experienced team
- Expected market demand for the building or units
- Location and price of units

A major point determinant in the financing of projects is also the project time frame. The project must be time based! And, it must be patently clear as to:

- When the construction project will start, and
- When the project will end.

It is also very important to note that projects being developed as a special purpose building, where the building is used as collateral for the loan, will be severely

restricted because of its limited use. For example: Let's say you are constructing a rice mill. Should the borrower default, the special nature of the elements of that rice mill may not readily allow the developer to recoup his losses.

Checklist for Borrowers

At Jamaica National, we have a checklist for information, which is to be submitted by a prospective developer when applying for development financing. The information required is listed under five major categories. These categories include:

1. Developer's Eligibility
2. Project Information
3. Marketing Plan
4. The Construction Loan
5. Development Design and Specification

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1. DEVELOPER'S ELIGIBILITY:

To determine the eligibility of your project, you will be required to complete a Pre-Qualification Document, to include:

- The company's Certificate of Incorporation
- Articles of Association
- Memorandum of Association
- A valid Tax Compliance Certificate
- Registrar of Companies Certificate
- A track record in housing development
- Evidence of membership in the Jamaica Developer's Association – this is an asset but it is not an absolute requirement.

2. PROJECT INFORMATION:

- **Development Data** – this addresses elements such as the name of the project, location, description and zoning of site, utilities and social amenities.

It provides a description of the development to include specifications of housing and infrastructure. Finally, the development data should include a Project Implementation Plan, highlighting construction duration, phasing, and the contractor.

- **Development Budget** – This stipulates the base date, base selling price, construction cost and interest rate. Additionally, other elements include: bills of quantities, construction estimate, specification and construction contract, and cash flow projections to highlight income expenditure.
- **Project Land Documentation** – This addresses details such as the ownership of the land being used for development, as well as the conduciveness of the property for the specific type of development. Documents to be submitted include:

- ☐ Certificate of Title, Land Sale Agreement/JV Agreement
- ☐ Surveyor's identification report
- ☐ Location Plan
- ☐ Topographic and boundary survey plans
- ☐ Valuation Report
- ☐ Certificate of Payment of Taxes
- ☐ List of encumbrances – mortgages, caveat
- ☐ Evidence of Real Estate Board Registration
- ☐ EIA report or NEPA requirements



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- **Project Management Team** – Also imperative in the construction and development process are those responsible for leading the successful execution of the project. At Jamaica National, we not only look at the developer's reputation and experience, we also broaden the scope to include the entire Project Management Team.

Therefore, as outlined under the Project Information checklist, résumés for the Project Management Team must be submitted, as well as information on the selected contractor and proposed contract.

3. MARKETING PLAN:

A marketing plan for any development is critical because the "build it and they will come" strategy will not work all the time – they, being the buyers. Hence, the major strategies in this will include:

- A defined target market, which speaks to minimum income, afford-

ability, etc.

- Selling prices – this provides information on deposit requirement, mortgage loans, etc.
- A submitted market demand survey.
- A basic approach to marketing and selling, by indicating the phasing and pre-sale options.

4. CONSTRUCTION LOAN:

At present, Jamaica National provides up to 80 per cent (80%) for construction loans with an interest rate of between 10-12 per cent. In order to satisfy the loan approval process and requirements, developers should outline source of funding as part of the construction loan information. Details should include:

- Developer's equity – source of funding
- Interest rate and loan period
- Loan repayment proposals
- Loan security proposal
- Loan Advance Guarantee, which in

some cases will be optional

- Performance Bond, if a third party contractor is employed

5. DEVELOPMENT DESIGN AND SPECIFICATION APPROVALS:

The final category on the checklist is the Development Design and Specification. There are some main areas in this category and they all deal with subdivision approvals; and approvals from a range of government agencies, including:

- NEPA
- The National Water Commission
- The Jamaica Public Service
- Parish Councils
- Solid Waste disposal plan
- Infrastructure design and approval
- Approved architectural and engineering designs

– C Earl Samuels,
Assistant General Manager, JNBS

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DAY'S PRESENTATIONS:

EFFECTIVE CONTRACT ADMINISTRATION:

The Contractor's Perspective –

Mr. Don Mullings, Managing Director, M & M Jamaica Ltd. & Past President, IMAJ

The Consultant's Perspective –

Mr. Raymond McIntyre, Chairman, National Contracts Commission & Principal APEC Consultants

The Client's Perspective –

Mr. Donald Moore, Senior General Manager, Construction & Development, National Housing Trust

FINANCING CONSTRUCTION PROJECTS

Mr. Earl Samuels, Assistant General Manager at JNBS addressed participants on the required steps to successfully receive financing for construction projects.



CONCRETE SOLUTIONS: NEW REVENUE OPPORTUNITIES

Mr. Andre Nelson, PE, Infrastructure Manager, Cemex Jamaica Ltd.

DISPUTES RESOLUTIONS FROM CONFLICT TO ARBITRATION

Mr. Maurice Stoppi, Managing Partner Stoppi Cairney Bloomfield, Chartered Quantity Surveyors and Chartered Arbitrator



IMAJ President, Carvel Stewart being interviewed by Power 106's Cliff Hughes during a broadcast from Seminar 2015.

SEMINAR 2015

Seminar 2015 was held on Wednesday, November 4, 2015 at the Jamaica Conference Centre, under the theme: "Effective Contract Administration: The Key to Successful Construction Project." This seminar was carefully crafted to give a better understanding of the need for Effective Contract Administration which will ensure successful completion of construction projects.

The support for this year's seminar was overwhelming; positive feedback was received from our sponsors and attendees. Dr. Omar Davies gave the opening address.

Over 350 persons were in attendance. The support from sponsors was excellent. There were 18 sponsors with Jamaica National being our main sponsor.

Again, Mr. David Garel, Chairman of the Seminar Committee, and its members are to be congratulated and thanked for a job well done.





Members of IMAJ Education and Training Committee having dialogue with representatives from Heriot-Watt University



2nd V.P. Mr. Calman Barrett poses with the 2015 recipients of the children of construction worker award from Frome Technical High School.

IMAJ Community Outreach: Educational Assistance



Mr. Courtney Costley presenting plaque to UTech final year construction student.



The IMAJ under its Educational Assistance Programme has adopted the Little Mount Olivet Basic School, 100 Lane, Red Hills Road. Members of the Association on Thursday, January 28, 2016 presented cheque for \$300,000 to the school for the development of a Computer Lab.

Mr. Courtney Costley, chairman of IMAJ's Education and Training Committee presenting cheque to Mrs. Mahalia Gauze-Shaw, Principal, looking on 1st Vice David Garel (r) and Ms. Oreta Brooks, Secretary Manager.



Mr. Calman Barrett presenting cheque for \$20,000 to Crystal Thompson of Knox College, 2015 recipient of the children of construction worker award.



Mr. Courtney Costley presenting cheque for \$20,000 to Kareema Brown of Papine School, 2015 recipient of the children of construction worker award.

Mr. Courtney Costley presenting cheque for \$20,000 to Tash Shana Francis of Immaculate conception High School, 2015 recipient of the children of construction worker award.



IMAJ Executive Council Member, Mr. Humphrey Taylor (centre), with Joshica Williams and Sarah Nelson of St. James High School, 2015 recipients of the children of construction workers award.



Mr. Calman Barrett presenting cheque for \$20,000 to Aaliyah Parchment of Bishop Gibson High School, 2015 recipient of the children of construction worker award.

Alternative Dispute Resolution

SETTLING DISPUTES

ALTERNATE DISPUTE RESOLUTION (ADR) is probably the most widely used – but also encompasses other forms of settling disputes, such as: Mediation, Conciliation, Expert Determination, Mini-trials, Med/Arb, and more recently Adjudication.

ARBITRATION

The process of arbitration need not be complex and unduly formal. If the agreement from which the disputes comes, calls for a sole arbitrator, it then becomes the duty of the arbitrator to conduct and rule the process as he/she sees fit. A definition of arbitration, in simple terms, can be:

"The appointment of an individual arbitrator [or a tribunal] to hear and decide between parties to a dispute arising from an agreement [contract] made between them and who agree that the decision of the arbitrator will be final and binding on them."

Who can be an arbitrator?

According to the law, anyone can be; as long as both parties agree to his or her appointment and agree that they will abide by the decision and that it will be final and binding.

I use the phrase "according to the law" since the term is applicable to all our commercial and other activities; but in the case of arbitration, we have a problem. The current governing Jamaican law is an adaptation of an out-of-date colonial English law called the Arbitration Act of 1900!

I issue a plea – not just on behalf of the building industry, but for all in Jamaica concerned with commercial activities – to the Minister of Justice to expedite the promulgation of a long-awaited new Arbitration Act of Jamaica.

Advantages

The main advantages of arbitration over that of litigation are:

- There is less formality than the court.

- It is private.
- The award of arbitration is final and binding on the parties, and appeals are only granted in exceptional cases.
- The time and place of the hearing is arranged to suit the parties.
- The issues in disputes are usually dealt with by technical or professional people instead of a judge who has to rely extensively on expert witnesses.
- It is quicker than the present litigation system and usually is less costly.

An advantage of the court system is that the time of the judge and the use of the court-house are free.

Preliminary Meeting

Once the arbitrator has been selected, he/she will usually call a Preliminary Meeting. This may be attended by any technical advisors as well as attorneys for the parties, if any. The main purpose of

this meeting is to set out the "rules of the game"; and determine the following:

- What is the dispute about?
- What are the salient particular issues?
- The genesis of the arbitration; e.g. a private agreement or construction contract or perhaps, Court ordered.
- Are there any legal issues to be pleaded?
- Is a site visit required?
- How is the arbitration to be conducted? For example: pleadings, methods of communication and other 'house-keeping' matters
- Firm dates for parties to serve Points of Claim details and Defence to claim
- Date(s) and location of hearing
- Who keeps the minutes of meetings and hearing, etc?
- How to wind up the proceedings – Final addresses, etc.

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- Date for handing down the Award and how it will be communicated.

Before the hearing starts, the claimant should submit his details to the other side and the arbitrator, followed by a response or a counter-claim from the other side. Either side may be asked for "further and better particulars" or evidence. The arbitrator should ensure that these processes do not produce delays.

Important Points:

- the process of arbitration is consensual; that is, whatever takes place or is to take place must be with the consent of both parties, providing those agreements do not contravene any agreed law of the issue.
- Although the basic principles are the same, there is a difference between domestic arbitrations and international arbitrations whose rules and

procedure differ from local standards and usually between parties of business in different countries.

The Hearing:

a) The hearing begins according to the agreement of the parties expressed in the preliminary meeting. The arbitrator will outline how the hearing is to be conducted; matters dealing with evidence, witnesses and record keeping. The arbitrator must ensure that agreed time schedules are obeyed.

b) After the presentation of all the evidence by both sides they will each deliver a closing address – a summation of the main points and a restatement of their case.

c) After reviewing the arguments and evidence presented, the arbitrator will make a decision based on his/her assessment and make an award, in the precise

and specific terms suitable of immediate enforcement. Although not required by law, the arbitrator is advised to conclude the terms of the award by giving reasons for making his/her decisions.

OTHER FORMS OF ADR

In cases where the ADR process – because it is voluntary and consensual – fails to arrive at a settlement, it may be referred to the court for settlement. We will deal first with the most widely used method, mediation.

MEDIATION

As with arbitration, providing both parties agree to a single mediator, anyone may be so appointed and the mediation may then proceed. The Court, having recognized that many cases litigated are mainly technical or do not depend on complex legal issues, and in an effort to reduce the

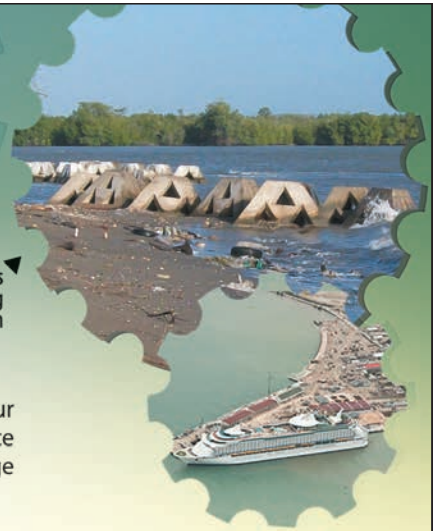
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issues, and the overwhelming case load on the court, may order mediation.

CONCILIATION

Requires all the parties to reconcile their entrenched positions in their disputes in order to arrive at an agreed settlement. The process is done in total privacy and usually conducted by attorneys, resulting in a expensive cost to the parties.

EXPERT DETERMINATION

The core of a dispute is exclusively concerning a particular industrial or commercial process or system, knowledge of which is not in the public domain. Such cases will involve the appointment of an expert or specialist representing the arguments of a party with an agreement on a third and equally person acting as an umpire whose adjudication will be accepted as final by the parties.

MINI-TRIAL

Not common in Jamaica but used abroad in disputes where the core issue depends on an interpretation of specific point or points of law. Used as a more economical method of assessing a party's chances of success or otherwise in a costly court action. Here an accepted legal authority – usually a retired judge – will hear arguments of the attorneys of both and give his or her opinion of who will succeed or fail, should the issue go to the court.

MED-ARB

This is a hybrid form resolving or reducing the number of individual items in a dispute. Normally, an arbitrator is strictly bound in order to be impartial, not to use his or her technical or legal knowledge to influence the progress of evidence being presented. In this form of settlement, arbitrators are, with the prior consent of the parties to the disputes, allowed to intervene to influence the parties to come to some kind of resolution, or to break a deadlock preventing progress. Especially in the case of non-complex issues, this is a handy and judicious way to convince the parties that hardly ever is one party 100%

right and the other 100% wrong.

ADJUDICATION

Is where both parties to an agreement – preferably prior to the beginning of a contract or at any time thereafter – agree that an individual [of integrity and experience] has the contractual power to receive, hear and settle disputes as and when they arise during the course of the project. She or he will then issue a deci-

sion to which both parties must conform until the end of construction. Then, if one part is still aggrieved, it may be arbitrated.

Most arbitration cases could have been avoided if the projects were fully designed, costed, time planned and correctly financed prior to commencement.

*– Mr. Maurice Stoppi, Managing Partner
Stoppi Cairney Bloomfield, Chartered Quantity Surveyors and Chartered Arbitrator*



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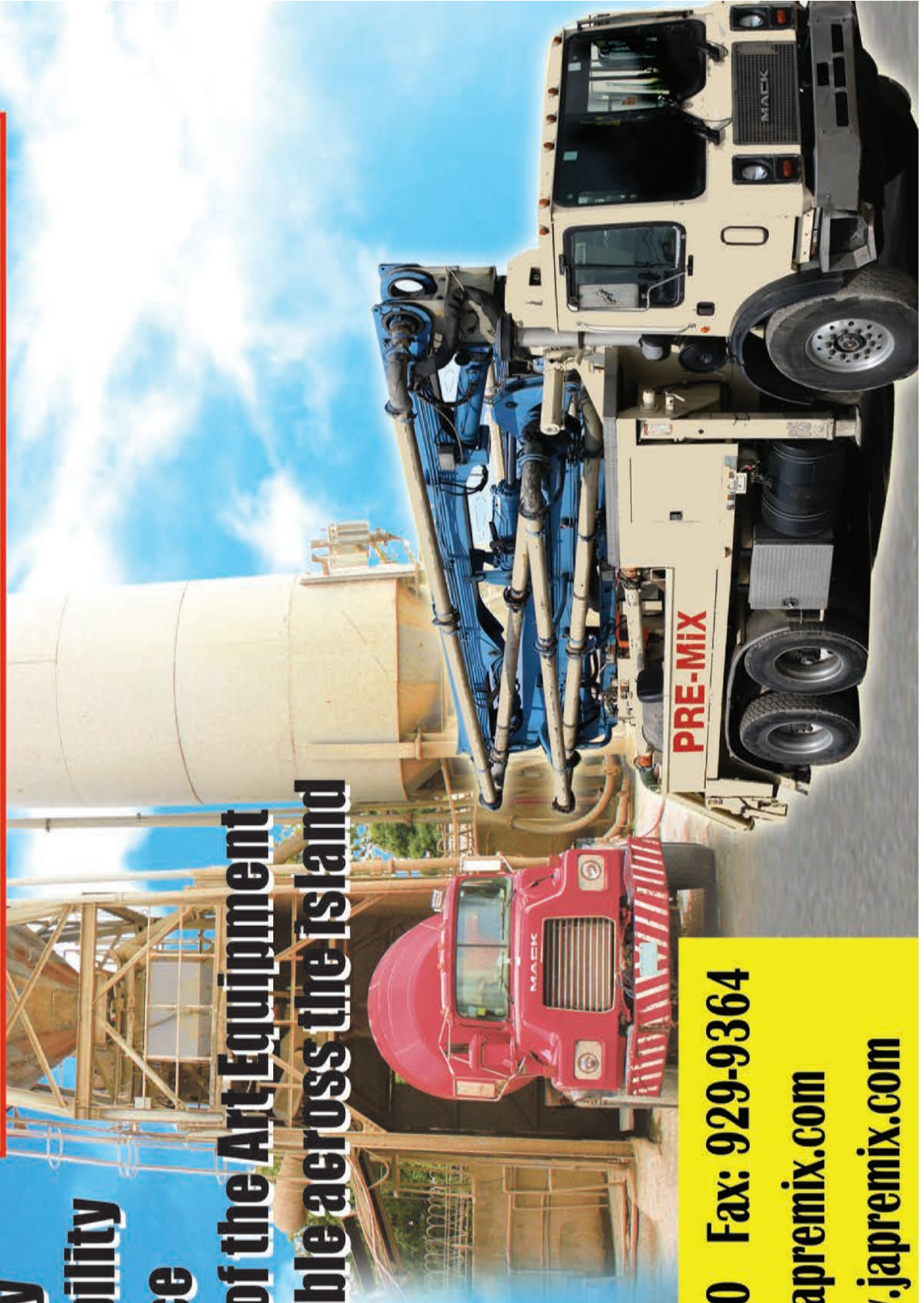
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