DISPUTE RESOLUTION

Subject Aim

This subject is intended to:

Provide an understanding of the aspects of law and procedures relating to the resolution of dispute in the construction industry and develop students’ ability to appropriately apply theoretical aspects of dispute resolution to practical situations.

Learning Outcomes

Students will demonstrate their ability to:

1. Explain the evolution of dispute resolution in an international context.
2. Identify the relevant laws, regulations and procedures and apply them to the resolution of disputes in Hong Kong’s construction industry;
3. Analyse the process of arbitration, mediation and adjudication;
4. Evaluate the implications involved, in terms of contractual and business relations, when making decisions about the choice of method to be used to settle construction related disputes;
5. Propose solutions to complex construction dispute cases both orally and in writing.
6. Communicate effectively.

Brief Syllabus Content

Litigation as a means of settling disputes.

Origins of arbitration and of alternative dispute resolution (ADR).

Different forms of ADR (conciliation, mediation, adjudication, expert appraisal, executive tribunal).

Dispute resolution processes in Hong Kong (arbitration, mediation and adjudication).

Application of laws relating to litigation, arbitration and ADR.

Law of civil evidence: classification of evidence; function of judge and jury; burden and standard of proof; facts that need not be proved by evidence; testimony; hearsay and opinion; admissibility of evidence. Expert witness.

Learning and Teaching Approach (tasks and activities designed to achieve learning outcomes)

With an emphasis on the practice and procedures of arbitration and ADR, students will be required to undertake case study-based assignments, produce seminar presentations, lead debates during tutorial sessions, and conduct role-play exercises.

Assessment strategy (assessment of student performance resulting from learning tasks)

Formative assessments of students’ performance will be conducted on a continual basis by providing feedback on the learning activities. For the purpose of summative assessment, 50% of the coursework marks will be assigned to one oral presentation and one written report relating to the theoretical aspects of dispute resolution. The remaining 50% of the coursework marks will be assigned to one oral presentation and one written report relating to the law of evidence.
Reading List


Hills, M.J. (2001), *Building Contract Procedures in Hong Kong*. Longman Hong Kong Education


Supplementary:


Hills, M.J. (1992), *A Case for an Alternative Approach to the Resolution of Disputes Under JCT 80 Standard Form of Building Contract, MSc dissertation (Supervisor: Dr. R.F. Fellows)*, University of Bath

Kaplan, N. (1983), *Hong Kong Arbitration Cases and Materials*, Butterworths Asia


Relevant Ordinances and Regulations of the Hong Kong Government