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## Dispute Review Boards — Mistaken Identity

By Blase Reardon

Recently I had the pleasure of taking an executive with literally “a world of experience” in international construction to the Patriot’s football game. In the course of the afternoon, in addition to the game itself, we talked about many cultures, many projects, and ultimately the different ways for handling construction disputes.

Almost as disconcerting as Doug Flutie’s ability to find another way to win a game for the Bills, was my associate’s complete ignorance of the term “Dispute Review Board”(DRB). His immediate reaction to my query was that I must be referring to Claims Management Firms or perhaps Claims Consultants.

Based on this experience and others I have concluded that we in the building construction community have much educating to do with regard to the availability of non-adversarial methods such as Partnering or Mediation for managing inevitable construction conflicts.

My own DRB experience has taught me that an independent group (usually three) of knowledgeable project overseers can provide an ingenious way to avoid and resolve disputes on a timely, cost effective, and harmonious basis. These overseers (the DRB) strive to remain familiar with a project, but independent from its participants (owner, designers, contractors, and consultants), for the sake of objectivity and fairness. In this way they can help to improve communications among these participants, help them recognize or admit that a conflict is developing, point out the consequences both to the project and its participants of not addressing a problem promptly, and, if

their DRB assignment so states, can actually render an opinion as to the outcome of a formal dispute.

As succinctly summarized by the Dispute Review Board Foundation (DRBF), an international association of experienced construction professionals based in Seattle, the mission of a DRB is to foster contemporaneous on-site conflict avoidance and dispute resolution.

Frequently, the DRB members are seen as peers before whom the project participants would rather bring only really difficult matters. Consequently, many conflicts get resolved before they ever become formal claims.

Several questions always arise regarding the beneficial use of DRB’s. Two of these deal with cost and success. According to statistics compiled for the last five years, the entire DRB process may cost as much as 0.5 percent of the combined design and construction budget for a project. Closer to home, at one large project on which I participated as a DRB member, the cost equivalent value was 0.25 percent for the DRB.

As to success rate, again according to the DRBF, there is an overwhelming correlation between the use of DRB’s and the absence of litigation on projects of all sizes and types. In my opinion, a DRB is a preemptive strike at managing inevitable construction conflicts before they occur. So, why not tell our DRB story, and do something positive for the construction industry!

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