

Title : Construction Partnering : Legal And Contractual Issue

Author : Yeap Chu Im

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ABSTRACT :

Partnering is a concept which the construction industry has requested in response to the apparently endless dispute and litigation of the 1980s. However, there are uniquely legal issues associated with a new concept such as partnering and the potential risks that if things are not done right, the process will not work. Thus, the purpose of this study is to analyze the legal and contractual aspect of partnering. Through the methodology of literature research and case law review, the major finding of this study concludes that the non-binding partnering agreement may well have legal consequences since partnering is by its very nature - duty to act in good faith and its influence on any co-existing contractual relationship where the terms of partnering agreements maybe implied into the substantive contract. The study suggests that appropriate contract language must be included as a safeguard in both the partnering charter and in the contractual language which established a partnering relationship. Still, the study admits that partnering is living by the spirit rather than the letter of the law. Partnering focus is not on legal or contractual relationships, but on human working relationships. Improving relationships has a much greater chance of securing improved performance than developments in contracts or contractual conditions.