

**ARCHITECT'S LIABILITY IN MAKING DECISION DURING CONSTRUCTION
STAGE**

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A project report submitted in partial fulfillment of the
requirements for the award of the degree of
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I declare that this project report entitled *Architect's Liability in Making Decision During Construction Stage* is the result of my own research except as cited in the references. The project report has not been accepted for any degree and is not concurrently submitted in the candidature of any other degree.

Signature :.....

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Date : 10th SEPTEMBER 2012

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allāh, the Most Gracious, the Most Merciful

Specially Dedicated To:

*My Beloved Mother, My Family, My Friends and My Beloved One.
Thank you for your support, love and encouragement.*

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ABSTRACT

Construction industry consists of multidisciplinary teams such as employer, architect, engineer, quantity surveyor, contractor and etc. The architect is one of the professional who play the main role in the construction industry. This is because, the architect is the party who has the closest relationship with the employer and the contractor. As the professional in the construction industry, the architect will act on behalf of the employer especially as the employer's agent. Besides that, the architect can also act as the contract administrator, independent contractor, adjudicator and quasi arbitrator in the construction industry. In this study, the architect can be as the quasi arbitrator in order to solve the problems that arise between the employer and contractor. As the middle person who will resolve the dispute between the contract parties, the architect shall be impartial and fair in giving the decision. The architect also must act in good faith for both contracting parties. However, there is an issue due on the impartiality of architect's decision where the architect acts as the employer's representative. So, the architect has the capability to be learning towards or bias to the contractor. Because of that, the objective of the study is to identify whether the architects can be held liable to the contracting parties for any decisions made in the context of his acting as a quasi arbitrator. Other than that, data collection of research methodology for the study is documentary analysis which it based on the legal cases. There are 6 cases selected for analysis to answer the objective of the study. The architect will be found liable if he is not acting in a quasi judicial immunity as the quasi arbitrator. He is also liable for the bad faith decision.

ABSTRAK

Industri pembinaan adalah terdiri daripada ahli-ahli professional seperti klien, arkitek, jurutera, juruukur bahan, kontraktor and sebagainya. Arkitek merupakan salah seorang ahli professional yang memainkan peranan penting dalam industri pembinaan. Hal ini adalah kerana arkitek merupakan ahli yang mempunyai hubungan rapat dengan klien dan juga kontraktor. Sebagai ahli professional yang terlibat secara langsung dalam industri pembinaan, arkitek boleh bertindak sebagai agen kepada klien, pentadbir kontrak, *adjudicator* dan juga sebagai *quasi arbitrator* dalam menyelesaikan pertelingkahan yang timbul antara klien dan kontraktor. Arkitek sebagai *quasi arbitrator* seharusnya berfungsi sebagai orang tengah yang neutral dalam memberi keputusan yang adil dan disertai dengan niat yang baik. Walaubagaimanapun, arkitek boleh bertindak berat sebelah terhadap kontraktor dalam membuat keputusan berdasarkan tugasnya sebagai agen kepada klien. Oleh itu, objektif kajian ini adalah untuk mengenalpasti bilakah arkitek dikatakan bertanggungjawab kepada ahli yang berkontrak atas keputusan yang dibuat dalam konteks arkitek sebagai *quasi arbitrator*. Selain itu, kutipan data bagi metodologi kajian ini adalah analisa dokumen di mana kajian ini berdasarkan kes undang-undang. Sebanyak 6 kes undang-undang dipilih untuk dianalisa bagi menjawab objektif kajian ini. Arkitek dilihat bertanggungjawab sekiranya dia tidak bertindak dalam imuniti *quasi judicial* sebagai *quasi arbitrator* di mana dia telah memberikan sesuatu keputusan yang berat sebelah dan dibuat atas dasar niat yang tidak baik.