

Get Advice – Before It’s Too Late!

Over the past few months I have been asked to advise builder clients in relation to construction disputes that have arisen. Many times these disputes have been ongoing for a number of months. Quite often, also, when the clients contact me, it is in circumstances where one or the other party (or both) have purportedly terminated the contract in question.

Sometimes the client is in the process of bringing an adjudication application (or lodging an adjudication response) under the *Building and Construction Industry Payments Act* and is looking for some guidance as to how to prepare their documentation.

Quite often, at that late stage, after reviewing what the client has done I have discovered that the client hasn’t taken the right step or steps at the critical time (or having taken the right step, have not carried out the step properly). This often means that the client’s legal rights to either terminate the contract or to pursue an adjudication application or to respond to an adjudication application (as the case may be) has been compromised and seriously affected.

One thing is clear – had the client obtained legal advice at an earlier time, the required steps would have been properly carried out and they would be in a much stronger position. These decisions make the difference between whether the client ultimately wins or loses – tens of thousands of dollars (even hundreds of thousands of dollars) can be at stake. At these times, the old saying “an ounce of prevention is worth a pound of cure” is particularly apposite. For the sake of an hour or two of advice, the client may have cost themselves a great deal of money.

Next time you are in a dispute and you are about to take a critical step – do yourself a favour and make sure you get some good advice and do it early – it may well save a lot of pain later on.

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