

# BUILDING AND CONSTRUCTION LAW JOURNAL

Volume 27, Number 4

August 2011

## EDITORIAL

**The search for meaning** ..... 219

## BOOK REVIEW – *Ian Nosworthy*

*International Commercial Arbitration* by Rashda Rana and Michelle Sanson ..... 220

## ARTICLES

### **It's a two way street: Competitive dialogue's ability to promote flexibility and fairness in public procurement** – *Carryn Vincec*

The tender process contract, under which government contracting authorities are bound to treat all potential tenderers fairly and equally, is fast becoming a familiar concept in the Australian public procurement sphere. However, little consideration has been given to the resulting negative consequences on the practice of public tendering in Australia. Government authorities have responded to judicial recognition of the tender process contract by increasing procedural compliance and restricting communication with tenderers, resulting in decreased flexibility and innovation. The new method of tendering introduced in the European Union in 2004, known as “competitive dialogue”, is a potential solution to these problems. Competitive dialogue encourages open communication and collaboration between contracting authorities and potential tenderers, and this article uses the London 2012 Olympic Games procurement experience to analyse the positive impact that a pre-submission dialogue phase can have on both the process and outcome of procurement for complex projects. .... 221

### **Proactive dispute prevention: The value of dispute review boards to the construction industry** – *Benjamin JW Teo*

The unsatisfactory outcomes produced by traditional dispute resolution mechanisms in the construction industry have driven a shift in emphasis towards the prevention of disputes. This article seeks to understand how construction disputes can be avoided by examining their legal definition and the stages of conflict preceding their crystallisation. This analysis is used to demonstrate how dispute review boards can play an effective and valuable role in preventing disputes from arising on construction projects. .... 233

## REPORTS

**Seabay Properties Pty Ltd v Galvin Construction Pty Ltd** ..... 244

**Simcorp Developments and Constructions Pty Ltd v Gold Coast Titans Property Pty Ltd** ..... 272

**T & M Buckley Pty Ltd v 57 Moss Rd Pty Ltd** ..... 280

### Corrigendum

Please note an error in the book review for *Hudson's Building and Engineering Contracts* in the June issue: (2011) 27 BCL 144. At the end of the piece, on page 150, the title of the book was inadvertently repeated at the end of the reviewer's details. The correct details should simply read:

*Michael Christie SC*  
*6 Selborne Wentworth Chambers, Sydney*

Mr Christie has no connection with *Hudson's Building and Engineering Contracts* other than having reviewed this latest edition for the Journal.

The production editor apologises for any misunderstanding or inconvenience