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Contracting disputes may go through the roof

MY SPACE BY
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A crisis is looming and may break out sooner than expected in the real estate industry, no thanks to recent government rulings that seem to side one stakeholder over another.

The grouse of contractors is that, under the Extension of Time (EOT) provided for in the Covid-19 Act specifically to allow for an extended grace period against litigation, developers are granted exactly 167 days whereas none is allowed for contractors yet.

Another serious grouse is that contractors have been shouldering all extra expenses and costs from SOP compliance at worksites since March 2020.

These costs — such as for Covid-19 swab tests, cleanliness and social distancing — are beyond contractors' obligations, and yet, we have to spend to move on.

No one can tell when the expenses will cease, as the current Covid-19 pandemic is moving into its fourth wave of infection. Contractors cannot go on without knowing when they will be reimbursed.

Issues raised at affiliate dialogue

At its affiliate dialogue on April 9, Master Builders Association Malaysia (MBAM) issued an appeal to the government to provide the same specific treatment on EOT to both contractors and direct contracting parties, that is, developers and contractors, to share compliance cost and related expenses.

MBAM believes this gloomy landscape of mounting disputes may become a reality, adding to the gravity of slower growth that contractors trying to stay afloat face.

When this happens, all stakeholders will suffer from incurring more cost and wasting time attending to legal cases while smaller contractors caught in the middle of these disputes will shutter up sooner, terminate workers and face eventual bankruptcy.

Two other urgent issues await government intervention. One is the request for the extension of a year's grace period on the enforcement of the latest amendments to the Employees' Minimum Standards of Housing, Accommodations and Amenities Act 1990.

The other is contractors' objection to the expansion of the Human Resources Development Fund Act 2001 (Act 612) to cover the construction industry, when they are already paying a levy to the construction industry authority, that is, the Construction Industry Development Board (CIDB) Malaysia.

In fact, in a letter dated March 25, 2021 to Human Resources Minister Datuk Seri M Saravanan, the Building Industry Presidents' Council (BIPC), representing seven local professional bodies, had similarly voiced its strongest objection on the issue.

The BIPC members are the Association of Consulting Engineers Malaysia, Institution of Engineers Malaysia, Malaysian Institute of Planners, Pertubuhan Akitek Malaysia, Real Estate and Housing Developers Association, Royal Institution of Surveyors Malaysia and MBAM.

Contractors face a bigger headache; disruption in the supply chain during this pandemic has caused prices of some building materials to rise as much as 15% from pre-Covid times.

We urged CIDB at a meeting on April 9 to help convince the Public Works Department to incorporate price variation clauses in government contracts to protect contractors from rising material prices.

Requirements for MRT3 contractors

I welcome the announcement by Mass Rapid Transport Corp on the plan to call for a tender of the Mass Rapid Transit Line 3 (MRT3 Circle Line) in August.

The scarce number of government projects has slowed down construction activity and the sooner the tender process for the MRT3 is completed, the better it is, as it will take about a year for actual work to start.

MRT Corp has required contractors to be skilled in the modern technology tools of Industrialised Building System (IBS) and Building Information Modelling (BIM) before they can participate in the tender process.

Safety can never be overstated

While celebrating MBAM's anniversary, my attention was drawn to the issue of safety and health protocols, of which we must take heed.

Senior Minister Datuk Seri Fadillah Yusof took the opportunity, in his video address beamed during the dinner, to remind all contractors to adhere to the safety SOPs, which are already in place to reduce unwanted accidents.

He spoke about the importance of the role played by MBAM in championing worksite safety, which is not only for the sake of construction workers but also the public at large. He reminded us about several recent major accidents involving workers and passers-by at construction sites. The dinner was graced by CIDB CEO Datuk Ahmad 'Asri Abdul Hamid, who represented Fadillah.

OSHCIM an Industry Code of Practice

Also at a recent MBAM Safety and Health Conference, Department of Occupational Safety and Health director-general Zailee Dollah announced a plan to upgrade Occupational Safety and Health in Construction Industry (Management) guidelines to an Industry Code of Practice (ICOP).

He shared that the initiative to reduce worksite accidents, in line with the principle of self-regulation, had helped reduce the number of fatal accidents at construction sites by 22% in 2019, two years after its implementation.

MBAM welcomes this upcoming ICOP, in which it plays a big part in drafting the guidelines for workers' safety and health. ■

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