

Decision made by Objections Board on Generic Cases

Generic Case No.1

Disclaimer

This publication is prepared by the Construction Industry Council (CIC) on the decisions made by the Objections Board in respect of generic cases of objections to levy assessment. It is NOT intended to constitute any legal advice on the provisions of the Construction Industry Council Ordinance or the Industrial Training (Construction Industry) Ordinance.

Nature of Objection

Construction Industry levy imposed on the certified payment not received by the objectors.

Decision of the Objections Board

The Objections Board comes to the view that:

1. Section 21 of the repealed Industrial Training (Construction Industry) Ordinance Cap 317 (the “repealed Ordinance”) and Sections 32 & 53 of the Construction Industry Council Ordinance Cap 587 (the “CIC Ordinance”) state that levy assessment is based on the “value of construction operations”.
2. Section 2A(1)(a) of the repealed Ordinance and Section 52(1) of the CIC Ordinance define the “value of construction operations” to be the consideration attributable to such operations, as stated in the contract, or ascertainable by reference to the contract. Accordingly, the levies are assessed on the gross certified value of construction operations and not on the actual amount of payment received by the contractor.

3. If there exists a dispute of payment with respect to the certified works between the contractor and the employer, it is a contractual claim between the two parties involved. The right of the Construction Industry Council to collect levy payment, which is based on value of construction operations, should not be affected.

Enquiries

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