

CHAIRMAN

VICTORIAN BUILDING INDUSTRY DISPUTES PANEL

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**SCHIAVELLO VIC PTY LTD
THE MELBOURNE TRUST BUILDING
(CNR RATHDOWNE & PELHAM)**

CFMEU (C&G)

CFMEU (FEDFA)

RE: CLAIM FOR SITE ALLOWANCE

THURSDAY, 9 AUGUST 2007

071-2007

DECISION

This matter relates to a disagreement as to the appropriate site allowance to be paid on the abovementioned project. In accordance with Appendix C of the Enterprise Agreement I am required to determine this issue.

The Union believes that the work being undertaken on this project is "new work" as opposed to the view of the principal contractor who believes that the work is in fact "refurbishment work".

The relevant clause in Appendix C of the principal contractor's 2005-2008 Enterprise Agreement is outlined in sub-clause 7.1 which states as follows:

"7.1 City of Melbourne (as defined in Clause 14. hereof):

- | | |
|---|-------------------------|
| (a) New Projects | |
| - \$2.2m up to \$180.9m: | \$3.25 per hour worked |
| - over \$180.9m: | as per subclause 7.3(b) |
| (b) Renovations, Restoration &/or Refurbishment work | \$2.80 per hour worked |

The Site Allowance on projects which are a combination of new and renovation work, shall be governed by the majority of work involved. For example, where the majority of work is new work, then the Site Allowance appropriate to new work shall be paid for all employees on the project".

Further, clause 11 states:

"In all cases where the parties fail to reach agreement on the Project Site Allowance to apply to a particular site or project, then such disagreement shall be referred to the Chairperson of the Victorian Building Industry Disputes Panel for determination. Provided that any outcome so determined will not be inconsistent with the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, the Workplace Relations Act 1996 or the Building and Construction Industry Improvement Act 2005".

Preliminary submissions were put to me on July 13 2007 at which time the parties presented their respective arguments relating to the merits of the claim.

The matter was then adjourned to enable an inspection of the works to be undertaken during the afternoon of July 13 2007. In the company of site management, the parties viewed all aspects of the works being undertaken which embraced re-design of the internal and external structure which included significant works involving installation of structural steel, a concrete slab in-fill, lift refurbishment, electrical, mechanical and hydraulic works and overall modernisation.

Following completion of the inspection, the matter was adjourned until July 20 2007 at which time the parties presented final submissions on the matter.

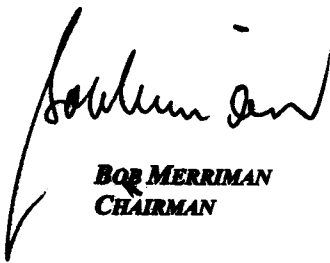
It is noted that the contractor is currently paying a site allowance of \$2.80 per hour based on the works being refurbishment. The Union states that the work constitutes a new project therefore the rate payable should be \$3.25 per hour

I am convinced having regard to the submissions and inspection that there is a combination of new and renovation work on this project. Therefore, I am required to determine what work comprises the majority.

Although there is no clear definition in the Appendix, aspects of the project have involved a major design change incorporating new construction e.g. a new entry and a new in-fill floor. However, some work involving alteration and renovation is also occurring including the refurbishing of the lifts.

To the best of my ability and taking into consideration all of the material available I have come to the conclusion that the majority of work being undertaken on this project is in fact renovation including restoration or refurbishing work.

Therefore I determine the appropriate site allowance for the project should be that based on the allowance for renovation etc. as prescribed in 7.1(b) in the enterprise agreement which is the amount currently being paid.



BOB MERRIMAN
CHAIRMAN

DATED THIS

11th

DAY OF

August

2007