

**August, 2019**

# **Adjudico**

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## **Construction Adjudication in Ontario Update on the ANA & ODACC Did You Know...**

*This is further to the related **Adjudication Awareness Bulletin – Special Bulletin #6 (July 2019)** titled “**Ministry of the Attorney General Announces the Authorized Nominating Authority Under the Construction Act**” with respect to the Construction Act that came into force in Ontario in 2017.*

1. ADR Chambers is the Authorized Nominating Authority (“ANA”) in Ontario as announced by the Ministry of Attorney General (“MAG”) on July 18, 2019.
2. ADR Chambers announced on August 22, 2019 that the ANA will be known as Ontario Dispute Adjudication for Construction Contracts (“ODACC”) and its services will be available across Ontario.
3. ODACC will commence operation on October 1, 2019, at which time ODACC Adjudicators will be available to provide expedited determinations.
4. ODACC will oversee and administer the statutory adjudication regime. ODACC is in the process of setting up its website (<http://www.odacc.ca/>).
5. ODACC Adjudicators must hold a valid certificate of qualifications to adjudicate as issued by ODACC (“Certificate”).
6. To be eligible to hold a Certificate, an Adjudicator applicant must meet the criteria set by ODACC, the requirements of the Construction Act R.S.O. 1990, c.C.30 (“Act”) and Ontario Regulation 306/18 (“Regulations”).
7. ODACC has stated that Adjudicator applicants must undergo a two-step application process, which includes the completion of an orientation program (Step 1) and an online quality evaluation process (Step 2).
8. Information and registration for the mandatory orientation program can be completed on <http://sfhgroup.com/odacc-program/> Upcoming orientation programs have been planned for September 2019 in Toronto.
9. After the completion of the evaluation process, the Adjudicator applicant is required to submit an Adjudicator Application Form Adjudicator Declarations, a resume providing relevant working experience and a letter of reference. The Adjudicator Application Form can be found on <https://adrchambers.com/wp-content/uploads/2019/08/Application-ODACC.pdf>
10. Following receipt of the Adjudication Application Form, ODACC will review applications and determine which Applicants are entitled to receive a Certificate based on qualifications, need, and the results of evaluation.
11. ODACC has stated that there will be 5 pre-designed Adjudication processes, of which 3 require Adjudication in Writing only, 1 includes an oral presentation (not in person) and 1 which requires a teleconference with the parties to establish the process, timelines and rules.
12. In respect of each of the Adjudication processes, there will be a fee payable by the Adjudicator to ODACC (“Administrative Fee”) which will be based on the fee payable by the parties to an Adjudicator (“Adjudication Fee”).
13. The Administrative Fee payable by the Adjudicator is 50% of the amount billed, where the Adjudication Fee is equal To or under \$3,000, and 40% of the amount billed where the Adjudication Fee is more than \$3,000.
14. If the parties and the Adjudicator do not agree the Adjudication Fee, then the Adjudication Fee will be determined By ODACC based on the Claim Amount at issue in the Notice of Adjudication.
15. The above Adjudication Fee will range from \$800 (Pre-designed Process 1), \$1,000 (Pre-designed Process 2), \$2,000 (Pre-designed Process 3), to \$3,000 (Pre-designed Process 4), and Hourly Rates starting at \$250 (Process 5).
16. In addition to the above Adjudication Fee, the Adjudicator is entitled to certain disbursements and, there may also be a cost of obtaining assistance from a person under paragraph 5 of section 13.12 of the Act.

**Watch this space: Adjudication Awareness Bulletins** will follow!

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