



## Case Study (E.01): Expert Appointment Residential & Commercial Development.

### The project

The project included the construction of a mixed development comprising of residential apartments and commercial units, in Dublin.



### The Expert appointment

The works were completed and the apartments occupied when Roger Gibson was appointed as an Expert for planning and programming matters in respect of a dispute referred to Arbitration between the Main Contractor and the Employer. In the pleadings, the Main Contractor alleged that he was due a substantial extension of time as a consequence of delays resulting from late information, changes and variation during construction of the project.

### Specific Instructions

The principal instruction was to prepare an Experts' report, with assessment, reasoning and linkage to specific causes, on the Main Contractor's entitlement to an extension of time.

Other instructions were to;

- i. Give opinion on the allegations of the main contractor's poor planning and programming at the onset and during the project.
- ii. Identify the sub-clauses of clause 30 of the RIAI form of Contract between the parties which were applicable to each specific cause of delay. This provides the linkage to quantum and prolongation costs.

### Outcome / conclusion

Experts' reports were exchanged; Experts' meetings took place; and a four week hearing was held in Dublin in 2004 at which Roger Gibson testified and was cross-examined.

The Arbitrator's Award was issued some months later, and the Main Contractor was awarded an extension of time of more than 90% of the period stated in Roger Gibson's Experts' report. The Main Contractor was also awarded relief from LAD's, prolongation costs and loss & expense for the actual delays associated with the 'events' that led to the extension of time.

*In view of the confidential nature of Arbitration proceedings, the names of the parties and detailed information of the project have not been given.*

Roger Gibson's instructing lawyers were, Masons, Dublin; partner in charge, Mr Dudley Solan (now a partner of A & L Goodbody, Dublin), assisted by Ms Niam O'Higgins (now a partner of Arthur Cox, Dublin).