CHAPTER 3

CONFLICT MANAGEMENT IN CONSTRUCTION INDUSTRY

3.1 INTRODUCTION

In Chapter 2, discussion had been carried out for general conflicts and its management. This chapter will focus on the conflict management in construction industry. Firstly the relationship between conflicts, claims and disputes will be examine, follow with the identification of causes and sources of conflicts and disputes in construction industry and lastly will discuss on methods of conflict management and disputes resolution used in construction industry.

To a significant extent the characteristics and the consequences of conflict impact on us every day. The influences of conflict can be felt in the family, the workplace, in politics and in construction industry. The construction industry is perhaps, the most diverse business. Not only does it cover a very wide range of end products but also people working within it come from a broad range of crafts and professionals. With the architects and almost all branches of engineering and surveying consultants, there can be twenty or more disciplines on a complex project (Whitfield, 1994).

The project tackled by this diffuse industry are not only wide ranging and varied in their end use but also within their types. Each major project is unique. It is prototype, a one off. This means that for every project undertaken a learning curve is inevitable. It is a rare industry indeed that produces so many varied products without significant repetition (Whitfield, 1994). The industry is further enriched by the presence of other parties with an interest in the end result, such as the funder, the developer, the planning authority, the construction regulators and the public at large whose built environment is
important to them economically and aesthetically. Add to the divergent interests the contractor who builds the edifice and his sub-contractors and suppliers who contribute specialist skills and materials and the relatively few people in the society without an interest in the construction process.

It is this variety of interests that provides the catalyst for conflict in the construction industry (Whitfield, 1994). Disputes in construction are common and range from a minor difference over the meaning of contract clauses to the public outcry over proposals for a motorway to be sited in outstanding countryside.

### 3.2 CONFLICTS, CLAIMS AND DISPUTES

Before further explore the sources of conflict in construction industry, the relationship between conflicts, claims and disputes will be examined. Many conflicts can be linked to claims or potential claims, although conflicts can also directly lead to disputes, as indicated in Figure 3.1, which set out the basic relationships between conflicts, claims and disputes in construction scenarios.

"Claim" is defined by Semple et al (1994) as "an assertion of right to remedy, relief or property". Claims on construction projects can be based on the contract itself, a breach of contract, a breach of some other common law duty, a quasi-contractual assertion for reasonable (quantum merit) compensation or an ex-gratia settlement request (Kumaraswamy, 1997).
Figure 3.1: Basic relationship between conflicts, claims and dispute
and potential outcomes

Source: Kumaraswamy, 1997

A contractual dispute arises when one party claims something, and the other party rejects the claims, or disagrees over liability either expressly or by conduct (Carmichael, 2002).

Clause 66(2) of 6th edition of the ICE Condition of Contract (ICE 1991) holds that a dispute is deemed to arise "when one party serves on the engineer a notice in writing stating that the nature of the dispute". Whereas rule 1 of the ICE Arbitration Procedure States that a dispute or difference shall deemed to arise "when a claim or assertion made by one party is rejected by the other party and the rejection is not accepted" (Eggleston, 1993). Therefore for the purpose of this research, dispute is deemed to arise "when one party serves on the other party a writ in writing stating that the intention of the dispute".

Figure 3.1 illustrates the potential for properly managed conflicts to lead to improvement. As mentioned by Kumaraswamy (1997), potential for properly managed conflicts will lead to improvements, while other conflicts may results in self-destructive