

ARCANA (AB)

Application for the appointment of a construction adjudicator in Alberta

The Alternative Dispute Resolution Institute of Alberta (ADRIA), The Alternative Dispute Resolution Institute of Canada, Inc. (ADRIC), and the Royal Institution of Chartered Surveyors (RICS) are working in partnership as ARCANA (AB), the ADR Institutes/RICS Construction Adjudication Nominating Authority (Alberta), to appoint adjudicators under the Prompt Payment and Construction Lien Act RSA 2000 (PPCLA).

Notes to consider before completing the application:

- This form is to be completed by the applicant and a copy of the Notice of Adjudication must be emailed to ARCANA (AB) at arcana@rics.org and CC'd to arcana@adralberta.com and to the respondent
- This application must be accompanied by full payment of the initial appointment fee (refer to schedule of fees) by EFT (Electronic Funds Transfer), or by cheque couriered to ADRIA, 3438-78th Ave, Edmonton AB T6B 2X9. **To arrange an EFT please contact arcana@adralberta.com**
- Either party to this dispute may pay the initial appointment fee to initiate the adjudication, or the appointment fee can be shared between the parties. Either party can also ask the adjudicator to make a determination in due course allocating or apportioning the full cost of the adjudication to either or both parties, including any appointment fees. ARCANA (AB) will appoint a qualified construction adjudicator. All ARCANA (AB) adjudicators have at least 10 years experience in the construction sector and have undergone the appropriate RICS training in construction adjudication. Roster Adjudicators will comply with the following table of fees:

	Range (refers to the amount in dispute, and not the total value of the contract)	Appointment Fee if the Adjudicator has been agreed upon (includes Certification of the determination and order) See Notes Column A	Appointment Fee if the Adjudicator has NOT been agreed upon (includes Certification of the determination and order) See Notes Column B	Adjudicator Max Hourly Rate See Note 4	Adjudicator Fee Cap See Note 4	Adjudicator % of Total Fee paid to NA
1	Under \$15,000	\$250 + GST	\$500 + GST	\$200	\$2,500	10%
2	\$15,000 - \$100,000	\$500 + GST	\$1,000 + GST	\$300	\$5,000	15%
3	\$100,001 - \$500,000	\$1,250 + GST	\$2,500 + GST	\$400	No Cap	20%
4	\$500,001 - \$5,000,000	\$3,500 + GST	\$7,000 + GST	As negotiated with the Adjudicator	No Cap	20%
5	Over \$5,000,000	\$5,000 + GST	\$10,000 + GST	As negotiated with the Adjudicator	No Cap	20%

(All fees are subject to GST)

NOTE – The appointment fee is non-refundable.

NOTE - Full payment of the column B Appointment Fee is required at the time of application, unless the parties have agreed on an adjudicator OR are confident that they will be able to agree on an adjudicator within 4 days. Should the applicant elect to pay the lesser amount (Column A) at the time of application, and if the parties are not able to agree on an adjudicator within 4 days, then the balance owing for Column B is required on day 4.

NOTE - If the applicant has paid in accordance with Column B and the parties then mutually agree on an adjudicator within the 4 days allotted, a 50% refund will be issued.

NOTE - Maximum hourly rates and fee caps are binding unless both parties and the adjudicator agree to change them.

NOTE - The adjudicator may request a reasonable retainer fee at the outset. Note also that the adjudicator has the authority to allocate the total cost of the adjudication equally or unequally between the parties as part of the final Determination & Order, regardless of which party or parties paid the Appointment Fee and/or retainer.

- ARCANA (AB) will monitor the adjudication appointment process throughout and adhere to the PPCLA timelines.
- Documents will be shared by means of a secure document sharing resource.
- The adjudication process does not usually involve a hearing, but rather is decided based upon written submissions.
- RICS and ADRIA staff will be available throughout the process to answer questions or address concerns.
- This application form is the contract between the signatory party and ARCANA (AB) and we will rely entirely upon the information contained herein. The information submitted on this application is accepted as being accurate and complete.

Information about the dispute

To assist in appointing a suitable adjudicator, please provide information, including where and what the works are, what the dispute is and the amount.

Address of the project/property: _____

Province/Territory: _____

City/Ville/Community: _____

Postal Code: _____

Brief Description of dispute: _____

Amount in dispute: \$ _____

Have you agreed on an Adjudicator?

Yes

☐

No

☐

Name: _____

Firm: _____

Information about the parties and their representatives

Please ensure the full names of the parties are correctly stated. Errors in this information may lead to an inappropriate appointment. Incorrect information will prevent the proposed adjudicator carrying out a thorough check for any potential conflicts of interest. If the parties have professional representation, these details must be stated. ARCANA (AB) will forward all relevant correspondence to them. Normally administrative communications from ARCANA (AB) are sent by email so it is important you provide email addresses and contact numbers. Where a party is unrepresented, please ensure contact numbers and email addresses are included.

Applicant

Firm Name: _____

Contact name: _____

Address: _____

Province/Territory: _____

City/Ville/community: _____

Postal code: _____

Email: _____

Telephone: _____

Respondent

Firm Name: _____
Contact name: _____
Address: _____
Province/Territory: _____ City/Ville/Community: _____
Postal code: _____
Email: _____ Telephone: _____

Applicant Party representative (if applicable)

Title: _____ First name: _____ Last name: _____
Designation: _____
Firm name: _____
Address: _____
Province/Territory: _____ City/Ville/Community: _____
Postal code: _____
Telephone: _____ Cell phone: _____
Direct dial: _____ Email: _____

If you are completing this form as a party representative, please state in what capacity you are acting
e.g. as a company official, a surveyor or lawyer.

Responding Party representative (if applicable)

Title: _____ First name: _____ Last name: _____
Designation: _____
Firm name: _____
Address: _____
Province/Territory: _____ City/Ville/Community: _____
Postal code: _____
Telephone: _____ Cell phone: _____
Direct dial: _____ Email: _____

Professional background of the adjudicator

Sometimes it is clear from the details of the matter in dispute what sort of professional background would be appropriate. This section should only be completed if additional skills are required to assist the adjudicator in understanding and giving a decision on a dispute. Care should be taken not to define the type of expertise too narrowly. ARCANA (AB) will not be bound by this indication, but will use it as far as is practical to inform its decisions.

If possible, please list the professional skills
required (e.g. surveyor, lawyer, architect etc.):

Conflict of Interest

ARCANA (AB) will take reasonable steps to ensure that the appointed adjudicator is free from conflict of interest. It is therefore essential that you provide details of the parties involved (including any companies or related entities that a prospective adjudicator would need to consider in their conflict checks). Adjudicators are required to disclose involvement or potential conflicts of interest to ARCANA (AB) prior to appointment. ARCANA (AB) will never knowingly appoint an adjudicator who has a conflict of interest.

If in your view there are any adjudicators who would have a conflict of interest regarding this matter, you should list them in the box below. Please also provide for such person, brief but clear reasons for this statement. Your attention is drawn to the legal principle that misrepresentations in this statement could invalidate the appointment process in its entirety, rendering any decision made unenforceable.

Name	Firm	Reason

Please note: Whilst ARCANA (AB) will give careful consideration to any representations, it will reach its own decision as to who is appointed. Notwithstanding any such statements, ARCANA (AB) always retains an unfettered discretion to appoint any adjudicator it regards as suitable.

Application submitted by Applicant:

Name:

Firm name:

Date:

Signed:

Submitting this application to ARCANA (AB) confirms that you have read and understand the explanatory notes contained in this application form. Your application is accepted on this basis.

Your Privacy

ARCANA (AB) takes the privacy and security of the personal information you provide very seriously. Your details are held in a secure database with authorised access only. We apply data processing policies in compliance with the relevant national and provincial legislation. ARCANA (AB) will not use the information you provide in this application to contact you with offers of products and services. Nor will ARCANA (AB) share your information with third parties for the purpose of sending you details of offers of products and services.

Explanatory notes:

- ARCANA (AB) has a duty to act independently and transparently when appointing an adjudicator. On receipt of a request, ARCANA (AB) will select suitably qualified adjudicators who are free from conflicts of interest normally from the ARCANA (AB) panel of adjudicators. Details of your application will be sent to prospective adjudicators to help them decide whether they are able to accept the appointment.
- After checking that the adjudicator meets the criteria the recommendation/appointment is confirmed on or on behalf of the ARCANA (AB) and the parties and the adjudicator is notified.
- If the dispute is resolved before an appointment is made, you must notify ARCANA (AB) as soon as possible.
- Parties are reminded that they may be jointly and severally liable, under contract or statute, for payment of the adjudicator's reasonable fees (including abortive fees for any work undertaken if the matter is settled before a decision is given).
- Please be aware that holiday and/or work commitments may prevent an adjudicator accepting an appointment.