

# Ontario Dispute Adjudication for Construction Contracts ("ODACC")

2020 Annual Report

The logo for ODACC, featuring the letters 'ODACC' in a bold, sans-serif font. The 'O' and 'D' are in a light blue color, while the 'A', 'C', and 'C' are in a darker blue color. The logo is set against a white rectangular background.

**ODACC**

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# MESSAGE FROM THE PROJECT MANAGER

## Message from the Project Manager

Ontario Dispute Adjudication for Construction Contracts (“ODACC”) is pleased to provide this report on its operation for the Fiscal Year ending July 31, 2020 (the “2020 Fiscal Year”).



ODACC was named the Authorized Nominating Authority by the Ministry of the Attorney General on July 18, 2019, and had to quickly establish operations before the adjudication and prompt payment provisions of the *Construction Act* came into force on October 1, 2019.

During its first Fiscal Year, ODACC developed its website ([www.odacc.ca](http://www.odacc.ca)) and a state-of-the-art computer system. It also developed the training program for adjudicators in conjunction with the Stitt Feld Handy Group, and has now certified over sixty adjudicators.

During the 2020 Fiscal Year, thirty-two adjudications were commenced at ODACC and three determinations were rendered. Seven adjudications remained open as of the end of the 2020 Fiscal Year. Other adjudications were withdrawn on consent by the parties, usually because the dispute settled.

ODACC adjudicators were committed to providing expedited adjudications to minimize disruptions to construction projects. Adjudicators maintained civility, procedural fairness, proportionality, and integrity.

ODACC would like to thank the construction industry stakeholders who offered guidance, those who distributed information about adjudication with their associations, and those who invited ODACC to speaking events to help educate the industry about adjudication.

ODACC looks forward to being part of the dispute resolution process in the construction industry in the next fiscal year.

A handwritten signature in black ink, appearing to read 'CR', with a long horizontal flourish extending to the right.

Carina Reider  
Project Manager, ODACC

# MESSAGE FROM THE STITT FELD HANDY GROUP

## Message from the Stitt Feld Handy Group

The Stitt Feld Handy Group was pleased to design and deliver the Construction Adjudication and ODACC Orientation Program (the “Program”) on behalf of ODACC. The Program was designed to:

- Provide an overview of the amendments to the *Construction Act* related to prompt payment and adjudication;
- Familiarize course attendees with the unique role and required skills of an adjudicator; and
- Provide opportunities for members of the construction industry to meet and share ideas about how to ensure the success of adjudication in Ontario.



The course attendees came from many sectors of the construction industry and represented numerous stakeholders. Many of the course attendees applied to become adjudicators and others are planning to do so in the future. Others were learning about the system in preparation for becoming parties or representing parties in adjudications. The course attendees’ backgrounds, level of expertise and range of perspectives helped to produce informative discussions and debates.

Many of the course attendees have been advocating and waiting for the introduction of prompt payment and adjudication legislation. Their enthusiasm and commitment to ensuring that the Ontario construction industry continues to grow and thrive was evident throughout the training.

The Stitt Feld Handy Group looks forward to continuing to support the Ontario construction industry through the provision of the Construction Adjudication and ODACC training.

A handwritten signature in black ink, appearing to read 'E. Whitmore', written in a cursive style.

Elinor Whitmore  
Vice President, SFHG

A handwritten signature in blue ink, appearing to read 'Jason Stitt', written in a cursive style.

Jason Stitt  
ADR Instructor and Mediator, SFHG

# FIRST ANNUAL REPORT

## First Annual Report

This report covers the first year of operation of ODACC (the “2020 Fiscal Year”), including the first ten months since the adjudication provisions of the *Construction Act* came into force.



Section 14.(1) of *Ontario Regulation 306/18* requires ODACC to issue and make public its annual report no later than ninety days after the end of each fiscal year. ODACC’s 2020 Fiscal Year ended on July 31, 2020. This report covers the period from July 18, 2019, when ODACC was named the Authorized Nominating Authority, to July 31, 2020.

The adjudication and prompt payment provisions of Ontario’s *Construction Act* came into force on October 1, 2019.

# ABOUT ODACC

## About ODACC

Ontario Dispute Adjudication for Construction Contracts (“ODACC”) is the Authorized Nominating Authority (“ANA”) under the *Construction Act*. ODACC is responsible for administering construction-related adjudications and for training and qualifying adjudicators. ODACC derives its powers from the *Construction Act* and *Ontario Regulation 306/18*, accessible at the following links:



*Construction Act*, R.S.O. 1990 c. C.30: <https://www.ontario.ca/laws/statute/90c30#BK43>

*Ontario Regulation 306/18*: <https://www.ontario.ca/laws/regulation/180306#BK21>

## ODACC'S DUTIES AND POWERS

Section 13.3(1) of the *Construction Act* sets out ODACC's duties, as follows:

- 13.3 (1) The Authority shall,
- (a) develop and oversee programs for the training of persons as adjudicators;
  - (b) qualify persons who meet the prescribed requirements as adjudicators;
  - (c) establish and maintain a publicly available registry of adjudicators;
  - (d) appoint adjudicators for the purposes of subsection 13.9 (5); and
  - (e) perform any other duties of the Authority set out in this Part or that may be prescribed for the purposes of this Part.

## ABOUT ODACC

Section 13.3(2) of the *Construction Act* sets out ODACC's powers, as follows:

- 13.3 (2) The Authority may,
- (a) subject to the regulations, set fees, costs or other charges related to the administration of adjudication under this Part, including fees, costs or charges for the training and qualification of persons as adjudicators or for the appointment of adjudicators, and require their payment; and
  - (b) exercise any other power of the Authority set out in this Part or that may be prescribed for the purposes of this Part.

Further duties and powers of ODACC are listed in sections 6 through 15.1 of *Ontario Regulation 306/18*. These additional duties and powers relate to:

- The Adjudicator Registry;
- The Adjudicators' Code of Conduct;
- Training programs for Adjudicators;
- The Schedule of Fees;
- Complaints regarding Adjudicators;
- Educational materials;
- ODACC's annual reports;
- Accessibility; and
- The administration of adjudications.



# WHAT IS ADJUDICATION?

## What is Adjudication?

Adjudication is a dispute resolution process that allows parties to present their dispute to an independent third party for a decision. In an adjudication, the individual or organization wishing to refer a dispute to adjudication (the “Claimant”) and the individual or organization from whom money is alleged to be owing (the “Respondent”) present their dispute to a third party (the “Adjudicator”). The Adjudicator will consider the evidence and make a decision (a “Determination”) within thirty days of the Claimant submitting its supporting documents. If the Adjudicator orders a party to pay the other party, the payment must be made within ten days of the issuing of the Determination.

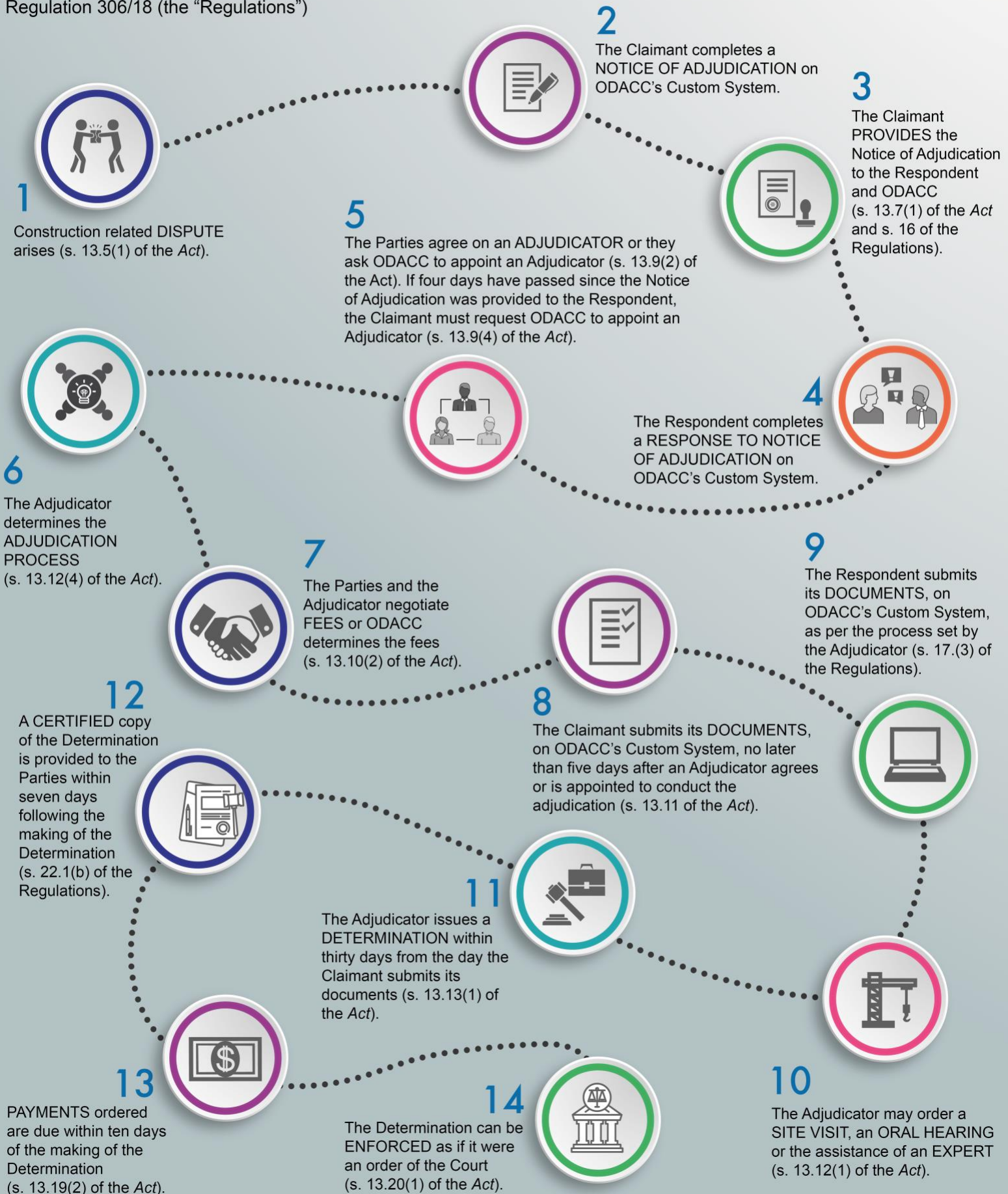
Adjudication is designed to help workers and businesses to be paid on time for their work and resolve payment disputes.

Some features of adjudications under the *Construction Act* are:

- Adjudication is quick. After an Adjudicator receives the Claimant’s documents, the Adjudicator must render a Determination in 30 days;
- Determinations are binding only until a decision is made in a subsequent proceeding. Either party can commence a proceeding in court or through arbitration after the adjudication. The Determination is binding until a final decision is made in the subsequent proceeding. In that case, adjudication is an interim process;
- Adjudications are inexpensive and inevitably less costly than standard arbitration and litigation. For information on costs, please refer to the Schedule of Fees, available at <https://odacc.ca/en/claimants/fees/>;
- Adjudication is available as a right. A party to a construction contract can commence an adjudication without the other party’s consent; and
- The adjudication process is set by the Adjudicator, not by a set of rules. The Parties can suggest a process to the Adjudicator for consideration. See, for example, <https://odacc.ca/en/claimants/adjudication-process-2/>.



Construction Act, R.S.O. 1990 c. C.30 (the "Act") and Ontario Regulation 306/18 (the "Regulations")



# ODACC CUSTOM SYSTEM

## ODACC Custom System

ODACC was required by the Ministry of the Attorney General to set up a state-of-the-art custom computer system to facilitate the administration of adjudications (the “ODACC Custom System”).

*“We need this system for other court processes.”*

*Anonymous Claimant*

The ODACC Custom System allows parties, representatives and Adjudicators to work through the adjudication process. During the 2020 Fiscal Year, ODACC developed ‘How To’ guides and videos to demonstrate how the ODACC Custom System works. Links to these materials are available throughout ODACC’s website ([www.odacc.ca](http://www.odacc.ca)).

Below are some of the features of the ODACC Custom System.

### PARTICIPATE IN ADJUDICATIONS

Parties can:

- Create an account and sign in as a party or representative;
- Give other individuals (i.e., assistants, contract managers, or project managers) access to the documents filed on ODACC’s Custom System, provided such access does not contravene confidentiality obligations; and
- Receive email notifications after activities are undertaken in ODACC’s Custom System.

### FORMS

Parties can:

- Create a Notice of Adjudication and Response to Notice of Adjudication (the “Forms”);
- View and download PDFs of the Forms; and
- Send the Forms to the parties and to ODACC electronically.

# ODACC CUSTOM SYSTEM

## ADJUDICATOR SELECTION PROCESS

Parties can:

- Accept or reject the other party's proposed Adjudicator and propose another Adjudicator;
- Ask an Adjudicator to consent to adjudicate a dispute; and
- Ask ODACC to appoint an Adjudicator.

## FEES, RETAINERS AND PAYMENTS

Parties can:

- View the adjudication fee and other fees (and costs), and formalize the fee agreement with the Adjudicator;
- View the amount of the deposit posted (the "retainer") paid by each party to cover the expected adjudication costs;
- Pay the amount required as a retainer;
- View the final amount owing;
- View a balance of accounts, detailing payments and refunds; and
- Download invoices.

## ADJUDICATION PROCESS

Parties can:

- Recommend to an Adjudicator a process for adjudication, such as one of the Pre-Designed Adjudication Process. For information on Pre-Designed Adjudication Processes, please visit <https://odacc.ca/en/claimants/adjudication-process-2/>; and
- View the details of the adjudication process set by the Adjudicator.

# ODACC CUSTOM SYSTEM

## SUPPORTING DOCUMENTS

Parties can:

- Upload supporting documents for the Adjudicator and the parties to view; and
- Download supporting documents that the Adjudicator and the parties have placed on ODACC's Custom System.

## MESSAGES

Parties can:

- Send messages to other parties, the Adjudicator and ODACC.

## DETERMINATIONS

Parties can:

- Download the Determination;
- Download the certified Determination; and
- Propose an extension of the Determination due date.

## TERMINATION REQUESTS

Parties can:

- Request a termination of an adjudication; and
- Respond to a request to terminate an adjudication.

# ADJUDICATOR TRAINING PROGRAM

## Adjudicator Training Program

ODACC is responsible for developing and providing a training program for individuals who are interested in becoming Adjudicators. ODACC developed the training program in partnership with the Stitt Feld Handy Group. The training program is called *Construction Adjudication and ODACC Orientation Program* (The “Program”).

NUMBER OF INDIVIDUALS THAT  
ATTENDED THE TRAINING  
PROGRAM: 319

NUMBER OF PROGRAMS  
OFFERED: 10

There is an online and in-person (or Zoom) component to the Program. The online component can take between two to six hours to complete. The in-person (or Zoom) component takes place over two full days.

The Program is designed for people who are interested in becoming an Adjudicator and for people who simply wish to know more about the new interim adjudication regime. To learn more about the Program, please visit <https://odacc.ca/en/adjudicators/certification-process/>

During the 2020 Fiscal Year, ten training Programs were offered by Stitt Feld Handy Group. Initially, the Program was offered in-person, but in response to the COVID-19 pandemic, the last three training Programs of the 2020 Fiscal Year were offered live and online, via Zoom. The average number of participants for an in-person Program was thirty-eight. The average number of participants in a Zoom Program was seventeen.

During the 2020 Fiscal Year, three-hundred and nineteen individuals participated in the Programs.

# CERTIFIED ADJUDICATORS

## Certified Adjudicators

Under the *Construction Act*, ODACC is responsible for evaluating interested applicants for the role of Adjudicator and for certifying Adjudicators. After completing the Program offered by Stitt Feld Handy Group, adjudicator applicants were able to apply to ODACC for certification by submitting an application package and answering evaluation questions.

NUMBER OF INDIVIDUALS  
THAT APPLIED TO BECOME  
ADJUDICATORS: 85

NUMBER OF CERTIFIED  
ADJUDICATORS: 65

Answering evaluation questions was mandatory for applicants who wished to be certified as ODACC Adjudicators. Adjudicator applicants were asked to answer substantive questions, draft sample Determinations and prepare a short video (among other things). ODACC assessed the responses to determine, among other things, whether the adjudicator applicant was able to write clear, concise Determinations based on the evidence presented, and whether the adjudicator applicant understood an Adjudicator's legal obligations.

To be eligible to receive a Certificate to adjudicate, an adjudicator applicant was required to meet the criteria set out in s. 3.(2) of the *Ontario Regulation 306/18*, including having at least ten years of relevant working experience in the construction industry.

Eighty-five individuals applied during the 2020 Fiscal Year to become Adjudicators. ODACC certified sixty-five Adjudicators.

The certified Adjudicators are listed in the Adjudicator Registry, available at <https://odacc.ca/en/adjudicator-registry/>. Only Adjudicators listed in the Adjudicator Registry are permitted to conduct adjudications and make Determinations under the *Construction Act*.

# CERTIFIED ADJUDICATORS

## WHO ARE ODACC'S ADJUDICATORS?

### Professions

ODACC's Adjudicators include accountants, arbitrators, architects, engineers, project managers, quantity surveyors, and lawyers. Table 1 lists the various professions. Some Adjudicators have more than one profession.

TABLE 1: ADJUDICATORS' PROFESSIONS

PROFESSION	NUMBER OF CERTIFIED ADJUDICATORS*
Engineer	28
Project Manager	26
Lawyer	22
Quantity Surveyor	10
Arbitrator	9
Architect	2
Accountant	1

*\*Some adjudicators have more than one profession.*

### Hourly Rate

Adjudicators set their hourly rate, at one of \$250, \$400, \$500, or \$750 per hour. Table 2 lists the number of adjudicators that ODACC has in each hourly rate bracket.

TABLE 2: ADJUDICATORS' HOURLY RATES

HOURLY RATE	NUMBER OF CERTIFIED ADJUDICATORS*
\$250	19
\$400	24
\$500	19
\$750	3



# CERTIFIED ADJUDICATORS

## Flat Fee Rates

Ninety-five percent of Adjudicators are willing to conduct adjudications for a flat fee rate that is proportionate to the amount in dispute. Table 3 lists ODACC's suggested flat fee rates for low-value adjudications, and the number of Adjudicators who are willing to conduct adjudications for that rate.

TABLE 3: FLAT FEE RATES

FLAT FEE RATE	NUMBER OF CERTIFIED ADJUDICATORS*
\$800	53
\$1,000	57
\$2,000	59
\$3,000	61

\*Most adjudicators are willing to conduct adjudications for more than one flat fee rate.

## Spoken Language

All of ODACC's Adjudicators can conduct adjudications in English. Six Adjudicators can conduct adjudications in French as well.

## Geographic Locations

ODACC has Adjudicators who are willing to travel across Ontario without travel or disbursement charges. Table 4 lists Ontario's geographical areas, and the number of Adjudicators who are willing to travel to those areas without travel or disbursement charges.

## CERTIFIED ADJUDICATORS

**TABLE 4: GEOGRAPHICAL AREAS WHERE ADJUDICATORS ARE WILLING TO TRAVEL TO**

GEOGRAPHICAL AREA	NUMBER OF ADJUDICATORS WILLING TO TRAVEL TO GEOGRAPHICAL AREA WITHOUT TRAVEL OR DISBURSEMENT CHARGES
Algoma	11
Brant	27
Bruce	22
Chatham-Kent	19
Cochrane	12
Dufferin	24
Durham	37
Elgin	19
Essex	16
Frontenac	20
Grey	22
Haldimand	24
Haliburton	20
Halton	38
Hamilton	40
Hastings	21
Huron	21
Kawartha Lakes	27
Kenora	8
Lambton	17
Lanark	20
Leeds and Grenville	19
Lennox and Addington	20
Manitoulin	10
Middlesex	18
Muskoka	25
Niagara	31
Nipissing	12
Norfolk	21
Northumberland	20

## CERTIFIED ADJUDICATORS

**TABLE 4 CONTINUED: GEOGRAPHICAL AREAS WHERE ADJUDICATORS ARE WILLING TO TRAVEL TO**

GEOGRAPHICAL AREA	NUMBER OF ADJUDICATORS WILLING TO TRAVEL TO GEOGRAPHICAL AREA WITHOUT TRAVEL OR DISBURSEMENT CHARGES
Ottawa	23
Oxford	23
Parry Sound	17
Peel	43
Perth	22
Peterborough	31
Prescott and Russell	18
Prince Edward	21
Rainy River	9
Renfrew	16
Simcoe	31
Stormont, Dundas and Glengarry	16
Sudbury	13
Thunder Bay	8
Timiskaming	8
Toronto	49
Waterloo	33
Wellington	29
York	45

# STATISTICS

## Statistics

Pursuant to section 14.(1) of *Ontario Regulation 306/18*, ODACC is required to report the following aggregated information for adjudication in Ontario.

(A) THE NUMBER OF ADJUDICATIONS COMPLETED DURING THE FISCAL YEAR, AND THE GEOGRAPHICAL AREA IN WHICH THE ADJUDICATIONS WERE COMPLETED;

During the 2020 Fiscal Year, thirty-two adjudications were commenced at ODACC. Of the thirty-two adjudications, three adjudications resulted in the rendering of a Determination during the 2020 Fiscal Year. Seven adjudications remained open as of the end of the 2020 Fiscal Year. Other adjudications were withdrawn on consent by the parties, as explained further below.

The three adjudications that were completed were in the residential sector. Two adjudications were in Durham and the third adjudication in Essex. Table 5 summarizes this data.

TABLE 5: NUMBER OF ADJUDICATIONS COMPLETED IN 2020 FISCAL YEAR, BY GEOGRAPHICAL AREA AND INDUSTRY SECTOR

GEOGRAPHICAL AREA	NUMBER OF ADJUDICATIONS THAT WERE COMPLETED DURING 2020 FISCAL YEAR	INDUSTRY SECTOR
Durham	2	Residential
Essex	1	Residential

## STATISTICS

(B) THE NUMBER OF ADJUDICATIONS COMPLETED DURING THE FISCAL YEAR, BROKEN DOWN BY EACH MATTER LISTED UNDER PARAGRAPHS 1 TO 7 OF SUBSECTION 13.5 (1) OF THE ACT;

Of the three adjudications that were completed during the 2020 Fiscal Year, two adjudications dealt with “The valuation of services or materials provided under the contract” and one adjudication dealt with “Payment under the contract, including in respect of a change order, whether approved or not, or a proposed change order.” No adjudications were completed that dealt with the matters listed under paragraphs 3 to 7 of subsection 13.5(1) of the *Construction Act*. Table 6 summarizes this information.

**TABLE 6: NUMBER OF ADJUDICATIONS COMPLETED DURING THE 2020 FISCAL YEAR, BROKEN DOWN BY EACH MATTER LISTED IN S. 13.5(1) OF THE *CONSTRUCTION ACT***

MATTER LISTED UNDER PARAGRAPHS 1 TO 7 OF SUBSECTION 13.5(1) OF THE <i>CONSTRUCTION ACT</i>	NUMBER OF ADJUDICATIONS COMPLETED DURING THE 2020 FISCAL YEAR
1. The valuation of services or materials provided under the contract.	2
2. Payment under the contract, including in respect of a change order, whether approved or not, or a proposed change order.	1
3. Disputes that are the subject of a notice of non-payment under Part I.1.	0
4. Amounts retained under section 12 (set-off by trustee) or under subsection 17 (3) (lien set-off).	0
5. Payment of a holdback under section 26.1 or 26.2.	0
6. Non-payment of holdback under section 27.1.	0
7. Any other matter that the parties to the adjudication agree to, or that may be prescribed.	0
<b>Total</b>	<b>3</b>

## STATISTICS

(C) THE TOTAL AMOUNT CLAIMED IN ALL NOTICES OF ADJUDICATION GIVEN DURING THE FISCAL YEAR, AND THE AVERAGE OF THE AMOUNTS CLAIMED DURING THAT YEAR;

In the 2020 Fiscal Year, thirty-two notices of adjudication were filed. The total amount claimed for the thirty-two notices was \$2,906,514.30. The average amount claimed was \$90,828.57.

Table 7 lists the total and average amounts claimed during the 2020 Fiscal Year, broken down by industry sector.

**TABLE 7: TOTAL AND AVERAGE AMOUNTS CLAIMED DURING THE 2020 FISCAL YEAR, BROKEN DOWN BY INDUSTRY SECTOR**

INDUSTRY SECTOR	NUMBER OF NOTICES OF ADJUDICATION GIVEN DURING THE 2020 FISCAL YEAR	TOTAL AMOUNT CLAIMED	AVERAGE AMOUNT CLAIMED
Residential	22	\$487,275.20	\$22,148.87
Commercial	5	\$1,806,746.84	\$361,349.37
Industrial	0	n/a	n/a
Public Buildings	2	\$240,348.78	\$120,174.39
Transportation and Infrastructure	3	\$372,143.48	\$124,047.83
<b>All Sectors</b>	<b>32</b>	<b>\$2,906,514.30</b>	<b>\$90,825.57</b>

## STATISTICS

### (D) THE TOTAL AMOUNT AND THE AVERAGE AMOUNT REQUIRED TO BE PAID UNDER DETERMINATIONS MADE DURING THE FISCAL YEAR;

During the 2020 Fiscal Year, thirty-two adjudications were commenced at ODACC. Of the thirty-two adjudications, three adjudications resulted in the rendering of a Determination. The total amount required to be paid under the three Determinations was \$35,459.40. The average amount required to be paid under the three Determinations was \$11,819.80.

Table 8 lists the total and average amounts required to be paid under the Determinations during the 2020 Fiscal Year, broken down by industry sector.

**TABLE 8: TOTAL AND AVERAGE AMOUNTS REQUIRED TO BE PAID UNDER DETERMINATIONS, BROKEN DOWN BY INDUSTRY SECTOR**

INDUSTRY SECTOR	NUMBER OF DETERMINATIONS MADE	TOTAL AMOUNT REQUIRED TO BE PAID UNDER DETERMINATIONS	AVERAGE AMOUNT REQUIRED TO BE PAID UNDER DETERMINATIONS
Residential	3	\$35,459.40	\$11,819.80
Commercial	0	n/a	n/a
Industrial	0	n/a	n/a
Public Buildings	0	n/a	n/a
Transportation and Infrastructure	0	n/a	n/a



## STATISTICS

### (E) THE PERCENTAGE OF ADJUDICATIONS COMPLETED DURING THE FISCAL YEAR IN WHICH THE ADJUDICATOR MADE A DETERMINATION WITHIN THE TIMELINE SPECIFIED IN SUBSECTION 13.13 (1) OF THE ACT;

All three Determinations that were rendered during the 2020 Fiscal Year were made within the timeline specified in subsection 13.13(1) of the *Construction Act*. Section 13.13(1) of the *Construction Act* states:

**13.13** (1) Subject to subsection (2), an adjudicator shall make a determination of the matter that is the subject of an adjudication no later than 30 days after receiving the documents required by section 13.11.

### (F) THE TOTAL NUMBER OF ADJUDICATIONS THAT WERE TERMINATED UNDER SECTION 13.14 OF THE ACT DURING THE FISCAL YEAR;

Of the thirty-two adjudications that were commenced during the 2020 Fiscal Year, twenty-one adjudications were terminated under section 13.14 of the *Construction Act*. Section 13.14 states:

#### **Termination of adjudication**

**13.14** At any time after the notice of adjudication is given and before the adjudicator makes his or her determination, the parties to the adjudication may agree to terminate the adjudication, on notice to the adjudicator and subject to the payment of the adjudicator's fee.

Of these twenty-one adjudications, only one had had an Adjudicator appointed. The other adjudications were terminated before an Adjudicator consented to adjudicate the matter.

Table 9 lists the reasons why the twenty-one adjudications were terminated.

## STATISTICS

TABLE 9: REASONS FOR TERMINATION

REASON FOR TERMINATION	NUMBER OF ADJUDICATIONS THAT WERE TERMINATED
The amount in dispute was paid in full.	3
The parties settled the dispute.	14
The date of the construction contract pre-dated October 1, 2019.	3
Other	1

### (G) THE TOTAL AMOUNT OF FEES, COSTS OR OTHER CHARGES PAID DURING THE FISCAL YEAR TO THE AUTHORITY;

#### Amounts Related to Adjudications

The Schedule of Fees, as approved by the Attorney General of Ontario on September 13, 2019, lists the fees that are payable to ODACC. The Schedule of Fees is available at <https://odacc.ca/en/claimants/fees/>

Of the thirty-two adjudications that were commenced during the 2020 Fiscal Year, ODACC received fees for twenty-five cases that were closed during the 2020 Fiscal Year. The fees for the files that remained opened at the end of the 2020 Fiscal Year will be reported during the next fiscal year.

#### *Adjudication Fee*

The fee paid by the Parties for the adjudication (the “Adjudication Fee”), may be agreed among the parties and the Adjudicator. If the parties and the Adjudicator cannot agree on an Adjudication Fee, ODACC will set the Adjudication Fee, on the Adjudicator’s request,

## STATISTICS

pursuant to s. 13.10(2)(b) of the *Construction Act* and in accordance with the Schedule of Fees.

During the 2020 Fiscal Year, ODACC received \$3,975 (plus HST) in Adjudication Fees. ODACC retains a portion of the Adjudication Fee and pays the Adjudicator the remaining amount, as explained below under the heading Administrative Fee.

### *Adjudication Referral Fee*

The fee paid to start the adjudication process (the “Adjudication Referral Fee”) is payable to ODACC by the Claimant. The Adjudication Referral Fee is:

\$0 where the amount claimed in the Notice of Adjudication is less than \$50,000; or  
\$500 (plus HST), where the amount claimed in the Notice of Adjudication is over or equal to \$50,000.

During the 2020 Fiscal Year, ODACC received \$1,000 (plus HST) in Adjudication Referral Fees.

### *Certification Fee*

Pursuant to sections. 22(1)(b) and 22(3)(b) of *Ontario Regulation 306/18*, ODACC will certify Determinations. The fee charged by ODACC for the certification (the “Certification Fee”) will be as follows:

- \$0 where the amount claimed in the Notice of Adjudication is less than \$50,000; and
- \$100 (plus HST), where the amount claimed in the Notice of Adjudication is over or equal to \$50,000.

During the 2020 Fiscal Year, ODACC received \$0 in Certification Fees.

## STATISTICS

Table 10 lists the amounts received by ODACC related to adjudications.

TABLE 10: AMOUNTS RECEIVED BY ODACC RELATED TO ADJUDICATIONS

TYPE OF FEE	AMOUNT RECEIVED BY ODACC DURING 2020 FISCAL YEAR
Adjudication Fee*	\$3,975.00 (plus HST)
Referral Fee	\$1,000.00 (plus HST)
Certification Fee	\$0.00
<b>Total</b>	<b>\$4,975.00 (plus HST)</b>

*\*The Adjudication Fee is payable by ODACC to the Adjudicator. ODACC retains an Administrative Fee, as explained at <https://odacc.ca/en/adjudicators/fees/>*

### Amounts Related to Training of Adjudicators

The Schedule of Fees, as approved by the Attorney General of Ontario on September 13, 2019, lists the fees that are payable by Adjudicators to ODACC. The Schedule of Fees is available at <https://odacc.ca/en/adjudicators/fees/>

#### *Training Fee*

According to the Schedule of Fees, individuals who participate in the training Program offered by the Stitt Feld Handy Group must pay a training fee, as follows:

A fee of \$995 plus HST will be payable to ODACC by adjudicator applicants for the Program.

During the 2020 Fiscal Year, ODACC received \$314,917.50 (plus HST) in training fees.

## STATISTICS

### *Qualification Examination Fee*

The Schedule of Fees states:

A fee of \$250 plus HST is payable to ODACC by adjudicator applicants who complete the Construction Adjudication and ODACC Orientation Program (the “Program”) and wish to complete the application process to receive a Certificate to adjudicate.

During the 2020 Fiscal Year, ODACC received eighty-five applications from adjudicator applicants, and ODACC received \$21,248.67 (plus HST) in qualification examination fees.

### *Continuing Training Program Fee*

Certified Adjudicators are required to complete continuing training programs yearly. According to the Schedule of Fees:

A fee of \$200 plus HST will be payable by each Adjudicator to ODACC for an online “refresher” continuing education training program each year. The refresher program must be completed every year by certified Adjudicators.

The 2020 Fiscal Year was the first year of operations for ODACC and Adjudicators did not complete a continuing training program. ODACC did not receive any continuing training program fees.

Table 11 summarizes the amounts that were received by ODACC for training and qualifying Adjudicators.

# STATISTICS

**TABLE 11: AMOUNTS RECEIVED BY ODACC FOR TRAINING AND QUALIFYING ADJUDICATORS**

TYPE OF FEE	AMOUNT RECEIVED BY ODACC DURING THE 2020 FISCAL YEAR
Training Fees	\$314,917.50 (plus HST)
Qualification Examination Fees	\$21,248.67 (plus HST)
Continuing Training Program Fees	\$0.00
Total	\$336,166.17 (plus HST)

## (H) THE TOTAL AMOUNT OF FEES PAID DURING THE FISCAL YEAR TO ADJUDICATORS.

### Administrative Fee

According to the Schedule of Fees:

A fee is payable by an Adjudicator to ODACC for each adjudication (the “Administrative Fee”). The Administrative Fee is based on the Adjudication Fee.

- Where the Adjudication Fee is \$3,000 or less (not including HST), the Administrative Fee will be fifty percent of the amount paid by the Parties;
- Where the Adjudication Fee is over \$3,000 (not including HST), the Administrative Fee will be forty percent of the amount paid by the Parties;
- and
- Where the Parties agree to terminate an adjudication under s. 13.14 of the *Construction Act*, the Administrative Fee is payable by the Adjudicator to ODACC with respect to the Adjudication Fee paid by the Parties.

During the 2020 Fiscal Year, ODACC received \$3,975 (plus HST) in Adjudication Fees. ODACC kept an Administrative Fee of \$1,987.50 (plus HST) and ODACC paid Adjudicators \$1,987.50 (plus HST).

# ODACC CONTACT INFORMATION

Ontario Dispute Adjudication for Construction Contracts

180 Duncan Mill Road, 4<sup>th</sup> Floor

Toronto, ON

M3B 1Z6

Tel: 1-888-221-3721 | Fax: 1-877-862-8825

Email: [authority@odacc.ca](mailto:authority@odacc.ca)

[www.odacc.ca](http://www.odacc.ca)



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