

CONSTRUCTION INDUSTRY ARBITRATION COMMISSION

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MEMORANDUM CIRCULAR NO. 02-2012

FOR : All CIAC Arbitrators
FROM : The Commission
SUBJECT : Clarification on the Conduct of Site/Ocular Inspection and on the Issuance of Directives to Parties/Witnesses
DATE : 26 September 2012

Section 13.10 of the CIAC Rules of Procedure Governing Construction Arbitration provides for the conduct of site/ocular inspection, as follows:

“Site inspection – The Arbitral Tribunal may, *motu proprio* after notice to the parties, or upon motion of a party, conduct a site inspection of any building, place or premises, including any work, material, implement, machinery, appliance or any object therein. The Tribunal in deciding on the necessity of a site inspection, may consider whether a video or pictorial presentation may suffice.”

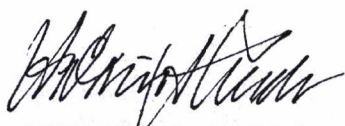
An ocular inspection wherein an expert witness will be called to testify, involves the presentation and admission of evidence (real/physical, testimonial, and/or documentary). Therefore, the site inspection also includes a hearing which should only be conducted in the presence of the arbitrator/s pursuant to Section 13.5 of the CIAC Rules which provides, in part:

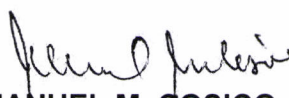
“xxx. Evidence shall be taken in the presence of the Arbitral Tribunal and all of the parties, except where any of the parties is absent or has waived his right to be present.” (underscoring supplied)

The Arbitral Tribunal may decide to forego site inspection where the site is distant from Makati or because of inclement weather in the site on the date requested, or other valid reasons. In lieu thereof, the parties may choose to have a pictorial presentation of the site or video recording thereof. In this case, the parties may make their own arrangements for the hiring of a cameraman or video recorder together with the concomitant expenses to be incurred, which of the parties shall bear the cost or the proportionate sharing thereof, or such other matters as the parties may agree upon.

As regards directives to the parties or witnesses to produce evidence, documents and/or to testify, these should be made not by oral instructions to the staff, but through written orders (subpoena and/or subpoena duces tecum or other appropriate orders) signed by the arbitrator/s and issued directly to the concerned parties/witnesses/entities.

For information and compliance.


ANTONIO A. ABOLA
Member


MANUEL M. COSICO
Chairman


EMILIO LOLITO J. TUMBOCON
Member