

CASE SUMMARY #8

FAILURE TO ADEQUATELY DOCUMENT AND COMMUNICATE ROLES AND RESPONSIBILITIES

COMPLAINT REVIEW COMMITTEE

The Committee recently heard a case that illustrated a failure to adequately document and communicate roles and responsibilities and the scope, progress and instructions for the project.

This case emphasizes the importance of ensuring that the scope of a contract for architectural services does not rely on sub-consultants or other contractors who are not accountable to the architect. The communication and documentation of roles and responsibilities is the foundation of a functioning contractual relationship.

BACKGROUND AND FACTS

The Architecture Firm (the “Architect”) entered into an architectural services contract with the developer for the design of a 100+ unit luxury high rise. After 3 years of ongoing work, the developer terminated the contract for failing to deliver final construction documents in a timely manner and filed a complaint with the Association. The complaint alleged that the Architect consistently failed to deliver finished drawings and documents, failed to properly supervise and coordinate consultants, failed to provide the expertise required and senior staff were not as involved as they should have been at the site supervision stage.

The Association undertook an investigation. The investigator noted the following factors that may have unduly affected the performance of the Architect:

- the design and construction sector were very busy and resulted in staff shortages and extended municipal approvals,
- the developer changed their mind frequently on key issues,
- the developer had succession of project managers that likely resulted in a lack of continuity and confusion in instructions to the Architect,
- the Architects was not aware of other contracts between the developer and the construction company,
- the Architect had limited control over sub-consultants who were paid by the developer and who consistently failed to deliver their documents in a timely way,
- the developer may have caused unreasonable delays due to their non-payment of the construction companies.

Having said that, the investigator concluded, and the Chair of the Complaint Review Committee agreed, that there was sufficient evidence of unskilled practice to refer the matter to a hearing. More specifically, there was sufficient evidence of insufficient management, supervision, direction and control of the project by the Architect and a failure to provide an appropriate level of expertise to certain aspects of the architectural services provided.

FINDINGS OF THE PANEL

In the end, the Architect was fully cooperative with the Association and the hearing proceeded based on a joint submission agreed to by both the Association and the Architect. The Architect made the following key admissions of unskilled practice:

- the Architect should have improved its written documentation outlining the scope of work, contractual arrangements and instructions;
- the Architect should have communicated better with developer on issues of role clarity and confirming instructions; and
- the Architect should have provided more support, direction, and leadership from the principal-in-charge.

SANCTIONS

The parties also made a joint submission on sanction which was extensively examined and revised by the Committee. The resulting sanction was:

- the Architect was reprimanded;
- the Architect was required to undertake the following going forward:
 - » follow regimented documentation procedures in accordance with (at a minimum) those procedures outlined in the Canadian Handbook of Practice;
 - » ensure high standards of communication with clients and consultants retained by clients and high standards of supervision of staff;
- costs of the discipline process not to exceed \$15,000.

In coming to agree with this sanction, the Committee took into account that since the initiation of the complaint, the Architect had become ISO 9001 compliant which the Committee considered to exceed the minimum standards for process documentation and quality management for the profession.

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