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DIFFERENT WORKS



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RLI DESIGN PROFESSIONALS
Design Professionals Learning Event

Contract Administration Pitfalls and Pointers

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Course Description

This course offers an analysis of the common problems that occur during the contract administration phase and provides a review of some best practices to help avoid those problems.

Learning Objectives

Participants in this session will:

1. Identify from claims studies the issues that may arise during construction and how to avoid those claims.
2. Gain an understanding of how to manage projects in light of these challenges, resulting in improved public health, safety, and welfare.
3. Learn how to recognize and handle life-safety issues on a construction project.
4. Review situations in which better adherence to codes, along with better site evaluation, coordination with engineers, and site design, could avoid legal issues.

Today's Presenter



Allen L. West, Partner

704.227.1046

awest@lawhssm.com

www.lawhssm.com

525 N. Tryon Street, Suite 1400

Charlotte, NC 28202

Construction Services Phase

- ❑ Most claims arise from CA / during the construction phase.

- ❑ The design team has the least control over this part of their services, and faces constantly changing conditions.

- ❑ Even with a perfect design, you may be blamed for not catching the mistakes of the contractor.

- ❑ On the other hand, the CA phase is your best opportunity to verify where the project fails to conform to the design documents, and to identify and correct design errors or omissions



Contract Administration Concerns

- Site visits - supervision vs. inspection vs. observation
- Change orders, pay applications, other issues
- Submittal responsibility/risk
- Means and methods issues
- Project safety

Site Visits—What is Your Role?

- Frequency and timing of visits—specified in contract?
- Who decides when site visits are scheduled?
- Purpose of visit
- Documenting visits
- Send appropriate person to site
- If you don't have to be there, don't go



Observation, Not Inspection

- Your role is to determine whether construction is proceeding in general conformance with the design intent in the plans.
- You are not there to guarantee the contractor's performance.
- “Inspection,” “supervision,” “oversight” and the like suggest more control over construction than you actually have.



Documentation of the Site Visit

- 
- A close-up photograph of a person's hand holding a black and silver ballpoint pen, writing on a white document. The document has some faint, illegible text on it. The background is blurred.
- Prepare a written report promptly after each visit.
 - “Just the facts, ma’am” (or sir) - Avoid editorial comments.
 - Record factual observations and conditions.
 - Remember your notes and reports may be reviewed by others.

Nonconforming Work

- Never stop the work, simply note the non-conformity and copy the owner.
- Only the owner can ultimately accept work that differs from the contract documents.
- Beware of advising on the means and methods of correcting defective work.



Payment Certifications

1 Qualifications

Make sure a qualified person from your office is reviewing the Work before processing payment requests.

2 Contractor's Affidavit

Require a contractor's affidavit as to the progress.

3 Means and Methods

Don't get into means, methods, or control issues.

4 Process Timely

Process applications for payment in a timely manner

Voluntary Termination

- Comply with all termination notice requirements.
- You need to limit your ongoing liability.
- Give the client a chance to correct contract violations.
- Consult with your insurance representative and legal counsel.

Shop Drawings and Submittals

- Owners often try to hold design professionals responsible for flawed shop drawings.
- Timeliness - Contract should stipulate a reasonable time for review.
- Employ a “QA/QC” plan for the review of shop drawings.
- Maintain a shop drawing review log.
- Retain copies of all submittals.
- Review your stamp so that it specifies what you are doing...and what you are not doing.
- Do not review shop drawings that exclude the contractor’s stamp of approval. Return to sender — “not reviewed.”



Requests for Information

1 Be timely and consistent

As with shop drawings, pay attention to timeliness, and a consistent review process.

2 Watch for excessive RFIs

Be wary of excessive or repetitive RFIs by a contractor seeking to establish a basis for change orders.

3 Enforce contract provisions

Understand and enforce contract provisions for RFIs.

4 Address concerns

Excessive or repetitive RFIs should be addressed with the owner and the contractor.

Documentation

Your documentation is your lawyer's ammunition in presenting your defense.

Documentation includes written records, audio/video tapes, photographs and computer records.

Observations should be promptly recorded.

Record observed facts—avoid unneeded editorial comments (cubicle chatter).

Assume all project records are discoverable—including notes and timesheets.

Record retention should at least track state statutes of limitation and repose.

Site Safety—Who's Responsible

Your contract should clearly exclude responsibility for site safety. However, remember you have a responsibility for the safety of your own employees.

Do not venture beyond your contractual responsibilities because your actions can create liability where none existed.

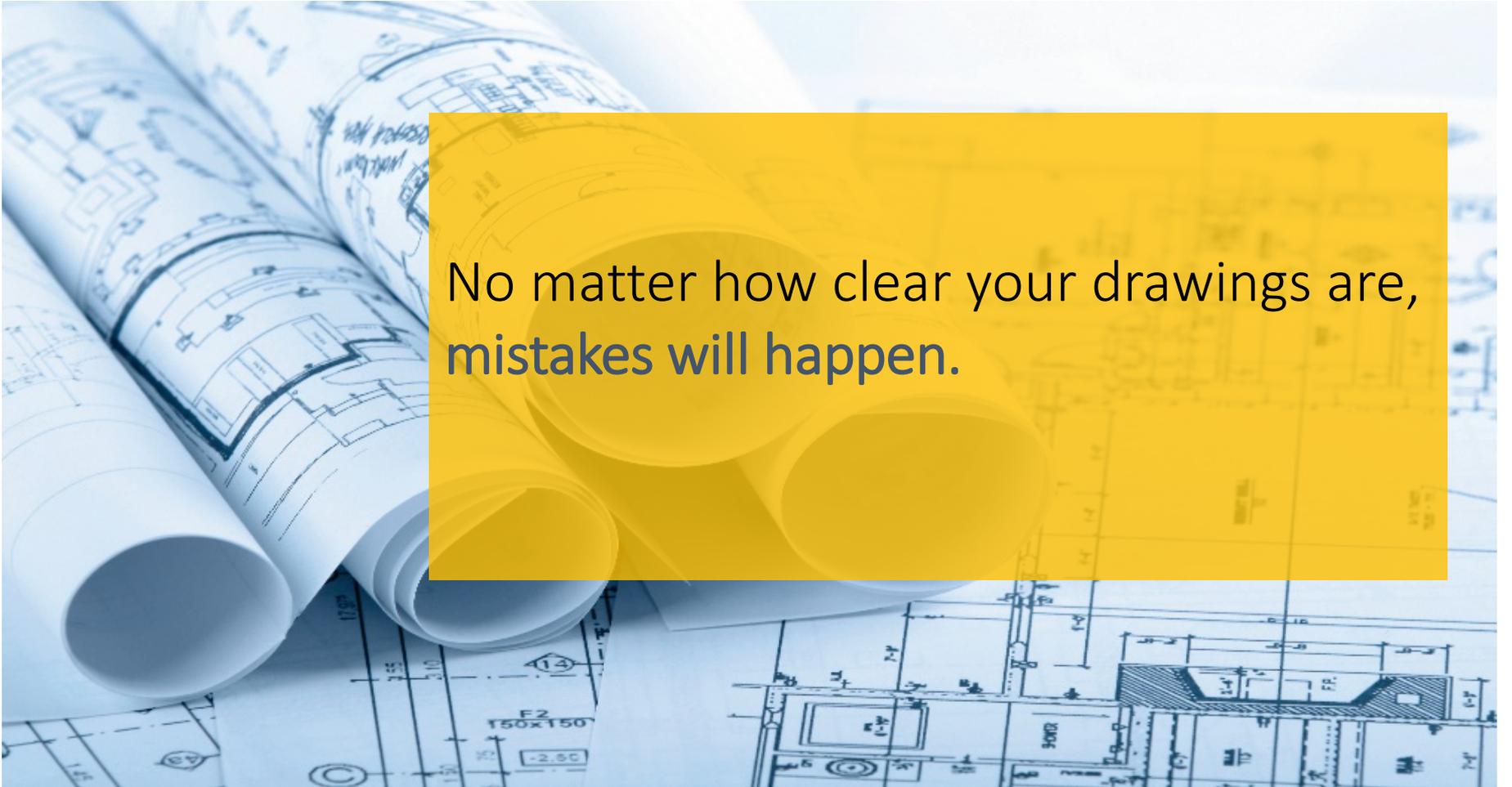
Keep accurate and timely records of site visits.

CM and D/B change the rules with regard to site safety. Consult with local, experienced legal counsel.

Steps to take if you see an obvious hazard

- 1**
Address imminent danger Alert those in imminent danger.
- 2**
Alert foreman Address the issue with the project foreman.
- 3**
Protect your people Remove your personnel from hazards.
- 4**
Remember your role Don't stop the Work.
- 5**
Don't correct Don't tell the Contractor how to correct the situation.
- 6**
Notify in writing Immediately notify the Owner and Contractor in writing of your observations.

Caution

The background of the slide features several rolled-up architectural blueprints. The blueprints are white with blue lines and text, showing various technical drawings and dimensions. A prominent yellow rectangular box is overlaid on the center of the image, containing the text. The overall scene is set on a light-colored surface, possibly a table.

No matter how clear your drawings are, mistakes will happen.

Final Notes

This presentation is only a tool to assist you in managing your responsibility to maintain safe premises, practices, and equipment, and is not for the benefit of any other party.

The presentation does not cover all possible hazardous conditions or unsafe acts that may exist, and does not constitute legal advice.

For decisions regarding use of the practices suggested by this program or presentation, follow the advice of your own legal counsel.

Thank you for your time!

QUESTIONS?

**This concludes The American Institute of Architects
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Allen L. West, Partner, Hamilton Stephens Steele + Martin
awest@lawhssm.com

Barbara Sable, AVP, RLI Design Professionals
Barbara.Sable@rlicorp.com

Jennifer Walton, RLI Operations Representative
Jennifer.Walton@rlicorp.com