



AIA Best Practices:

Risky business: Managing the top five hazards

Contributed by Victor

Summary

This article identifies the five most risk-prone areas within architecture practice, and explains how paying special attention to them may help mitigate the risk of potential claims.

The standard of care

Professional liability is the exposure we are subjected to when found deficient in performing professional services. Performance is gauged by the prevailing standard of care—what is reasonably prudent to expect an architect to do under the facts and circumstances surrounding the project. The standard of care is determined by the conduct of one's peers: reasonably prudent practice for those engaged in similar activities under similar circumstances.

The standard changes from time to time and place to place; what is acceptable practice today may not be acceptable tomorrow or may not be acceptable today in another community. As a result, professionals must constantly re-evaluate their performance to ensure compliance with the prevailing standard of care.

Professional duty and liability

As professionals, architects are duty-bound to expand their knowledge and apply it effectively, which in turn influences and modifies the benchmark against which the performance of all will be gauged. Professional liability, like liability in general, derives from an evolutionary process that attempts to establish a condition of fairness and equality. Its origins lie in the simple concept that when we act, we must avoid harming another. Not every act resulting in harm to another imposes liability; only those acts performed negligently do so.

Five problem areas

A program of in-house quality control can reduce exposure to professional liability claims. To begin formulating such a program, consider carefully those areas within your architecture practice that most frequently give rise to claims, all of which are within your power to address.

Failure to supervise inexperienced employees

Analysis of claims against architects indicates that a major portion of design error is in the work of inexperienced employees. This fact seems to be borne out by a second statistic: Firms experience more claims during and immediately after a period of rapid growth than during a period of moderate growth.

Inadequate project coordination and in-house communication

A second type of error, revealed through claims analysis, arises from lack of coordination within the design office. Many junior members of a design team have little or no concept of how their segments of the design relate to the total project. Some team members understand little about how their two-dimensional representation is turned into a three-dimensional object. In addition, there is often a glaring lack of insight into the construction process.

Failure to communicate between the prime professional and consultants

Communication among the various professional firms engaged in the design is often woefully inadequate, leading to considerable problems, misunderstandings, and, all too frequently, claims.

Lack of quality control on design changes

In response to changes that the client requests or requires, architects often subject themselves to unreasonable time schedules that do not permit adequate review, coordination, and checking of their efforts.

Poorly worded contract documents

The use of nonstandard contract documents can create an unnecessary and unwarranted exposure to claims if they fail to adequately define the duties and responsibilities of professionals and impose burdens and commitments that are not a recognized part of their professional function.

Developing solutions

Workable solutions to these five problem areas vary with the size and function of each design firm. However, general recommendations can be made and implemented in a manner consistent with good business practice and sound economics. No matter how desirable a program of in-house loss prevention might be, such a program will not function if it imposes unrealistic burdens or unobtainable goals. It must, therefore, be implemented with little or no increase in general overhead expenses.

Each firm, irrespective of size, should have at least one quality control coordinator who selects and trains employees for specific projects; orients the in-house design team to the total project; coordinates the firm's efforts with those of other design professionals engaged on the project; completely reviews the firm's design efforts; and distributes and discusses the various loss-prevention materials and ideas as they are made available.

Food for thought

This is excerpted and adapted from an article by Gerald W. Farquhar, Esq, published by Victor, a managing general underwriter (MGU), in 1973. Since that time, the five areas within architecture practice that most frequently give rise to claims have remained the same.

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This article corresponds to:

Architect's Handbook of Professional Practice, 15th edition Unit 1 – The Profession
Chapter 12 – Quality Management
Section 01 – Origins and Development of Quality Management