

The Importance of Understanding Architectural and Builder Contracts



By
Mr. Earl O. Myler
Chairman/CEO.

During the past several decades, parties to architectural and builder contracts have become more and more involved in disputes and legal issues. Though this is hard to believe, one industry source estimated that 50 out of every 100 projects end up in some kind of legal hassle. Unfortunately, most church leaders turn over architectural and builder contracts to the church's attorney without scarcely reviewing the contract provisions themselves. How can you as a church entity minimize your risk of disputes relating to the contracts you enter?

The first defense is not to enter into any contracts with companies or individuals that have had a continuous history of legal disputes involving attorneys. This is something you should find out during the interviewing process. Most firms that have been in business for several years probably have not escaped any legal disputes 100%, but what you are looking for is a pattern of these kinds of problems.

The second most important thing to do is to read every line and word of the contract and understand what it says and means, especially in relationship to the Building Delivery System you are contemplating using. Though you may turn it over to an attorney and he says it looks okay, you must understand that your church is going to have to live with the provisions of the contract, not your attorney. He is not a party to the contract. You are. So, if something is not crystal clear to you, have your attorney clarify it for you. Understanding the contractual obligations of all parties to the contract, including your own obligations, will help avoid misunderstandings in contractual language later. Another word of advice is to spend your money on an attorney that knows construction law if you are going to hire one. Not all attorneys are good construction law attorneys, like all doctors are not good heart surgeons.

The third most important thing is to put in clear, forthright, understandable language anything that has to be interpreted for you or anything you don't clearly understand. Also, if there are any holes in the contract that you want filled, now is the time to do it. The purpose of reviewing the contract is to clearly understand everything before you sign it. Note that short contracts are not necessarily the best type of contracts for churches. The more detailed the contract, thus usually longer, the better it is for the church.

And, the final important thing for you to do is not to file the contracts away and never review them again until problems pop up. Most church building programs stretch over several months. You are going to forget what the contracts say. Most contracts state what the obligations of each party are as you progress through the major stages of your building program. So, as you go from one major stage to another, review where you are and where you are going in the next phase. The more knowledge you have about any contracts you enter into, the less likely you are to have any legal problems. And, legal problems are to be avoided not only because of the great expense and frustrations that come about, but because it is the right thing to do when you are doing God's work. Refer to *1st Corinthians 1-8*.

There is a guide published by Construction Publications, 4552 East Palomino Road, Phoenix, Arizona 85018, that is a great reference listing of all types of books and other publications regarding construction-related contracts. It is called "*Guide to Construction Contracting Legal Information Resources with Technical Construction References*" written by Jack W. Ward. It can lead you to a great deal of information.