

# CLIENT CAUTION

issues we need to be aware of

## UNDERFUNDED CLIENTS

- When underfunded clients hit the financial wall before a project is complete, they often try to stem their losses by stopping payments to the architect. They also are much more likely to initiate lawsuits against architects in the hope that payments due will be suspended or permanently eliminated, or even to recover money by asserting claims for errors or omissions.
- Before entering into an owner-architect agreement, or even before incurring expenses in anticipation of an agreement, perform due diligence, including the reasonable request that prospective clients demonstrate they have the financial resources to complete the project. For residential projects, if it is permissible in your state, ask your accountant to obtain a credit report of every prospective client and help you evaluate their creditworthiness.
- When the client's vision exceeds the client's means, the best the architect can hope to achieve is partial payment. The worst is a series of expensive, time-consuming, and pointless lawsuits.

## UNSOPHISTICATED CLIENTS

- Clients who do not know what they are doing can pose as great a risk to architects as ill-intentioned ones. They often combine inadequate finances with unrealistic expectations and are more likely to mismanage projects. Their inexperience or ignorance can lead to misunderstandings, which often result in claims against the architect.
- One cannot expect all clients to be fully knowledgeable about building design and construction; that's why they retain professionals. Part of every architect's job is to help educate the client, to enable the client to make informed decisions. Clients who value the architect's expertise respond positively to such coaching.
- Unsophisticated clients exhibit an early unwillingness to increase their knowledge or participate fully in the process and might even be dismissive of the architect's efforts in this regard. These warning signs should not be ignored.

*Text in this module has been quoted or modified from "The Architects Hand book of Professional Practice" AIA 14th Edition.*

## CLIENTS WHO VANISH

- Avoid dealing with developers who build at the lowest possible cost, sell out quickly, and then disappear. Such clients telegraph their intentions early by securing minimal design services at the lowest possible price and refusing to pay for any level of construction phase services. At project completion, these clients often demand that the architect provide all certifications required by mortgage lenders and municipal governments. When these clients sell out and move on, the architect remains liable to the subsequent purchasers of the property, and claims often arise due to improper construction over which the architect exercised no control.



**AS SOON** as you see signs that the client might be thinking of filing a claim, **notify the principal in charge.**

## CLIENT EVALUATION

Other warning signs may be less obvious, but one can nevertheless conduct a "client evaluation" to assess the client objectively and to minimize potential risks. The following checklist, while not intended to be comprehensive, may be helpful in sizing up prospective clients.

- Is this a regular client or a first-time client?
- Is this client likely to need special attention?
- Does the client have experience with this type of project?
- Does the client have a reputation for litigation?
- Does the client have enough money?
- Is the client realistic about time and budget constraints?
- Should any special issues be addressed in the professional services agreement?
- Does the client understand the difference between project budgeting and construction budgeting?
- Does the client link payments for services to events beyond your control?

## WARNING SIGNS THAT A CLIENT MAY FILE A CLAIM

- Refuses advice about scope of services or level of effort.
- Refuses to negotiate fair terms and compensation.
- Insists on unrealistic performance standards like “highest” and “most economical”.
- Insists on being indemnified but will not indemnify the architect.
- Insists on an unreasonable schedule for performance of services.
- Refuses to conscientiously consider advice about contractors.
- Refuses to pay, especially when services are complete.

## EXPLAIN THE FOLLOWING TO THE CLIENT

- The architect provides design services and helps the client get a completed project from the contractor that generally conforms to the architect’s design and specifications.
- The contractor, not the architect, is responsible for building the project.
- The architect does not design or manufacture specified equipment and cannot guarantee equipment.
- The architect must provide an appropriate level of field observation services to determine—for the client’s benefit—that the contractor is building the project in general conformity to the architect’s design and specifications.
- The architect and the architect’s employees cannot detect every minor deficiency in a project nor are they compensated to do so.
- If a client uses its own personnel in the field rather than an architect’s field services, the contract must reflect this accurately and relieve the architect of liability for evaluation of construction and changes made on the site.
- There is no substitute for a complete geotechnical engineering contract.
- Architects can only be expected to provide construction cost estimates based on their knowledge and available information, rather than exact costs, because of factors beyond their control.

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