

CONDO CONSTRUCTION PROJECTS: WHY IT'S VITAL FOR ASSOCIATIONS TO SEEK COUNSEL FIRST

BY LISA A. LERNER

For community associations, construction projects often represent some of the costliest expenses they will ever approve, but in many cases associations enter into these contracts without consulting qualified association counsel in advance. With certain exceptions, condominium associations are required to obtain competitive project bids that exceed 5 percent of the total annual budget, including reserves. For Homeowners Associations, the threshold is 10 percent.

Associations should contact board members or managers at other properties where the contractor has performed similar projects to check references. Contractors should be asked to submit written bids in response to bid packages from the association that may include specifications and drawings prepared by a licensed engineer or other design professional. Attorneys will obtain the correct name of the

legal entity of the selected contractor and verify that it is properly licensed to perform the work. They can also search for any complaints filed against the contractor.

It is also critical for associations to stipulate that the contractor must maintain proper insurance coverage and limits, including workers' compensation and commercial general liability insurance. The association will need to be named in original certificates of insurance reflecting that it is an additional insured and not merely a certificate holder. Association attorneys and insurance professionals are able to verify the proper insurance provisions are included in the contract and the contractor has all of the proper coverage. The contractor should also produce all necessary building department permits for the project. Under no circumstances should work be performed without having secured proper permits.



To comply with construction lien laws, the association must file a Notice of Commencement for any project over \$2,500.

The payment schedule in the contract should be commensurate with the percentage of the work that is completed, and it should include a retainage of 10 percent that is held back for each payment. The contractor should provide releases of liens and progress payment affidavits for all partial payments and releases from all of the subcontractors and suppliers.

For additional important details, read the longer version of this article at www.southfloridaopulence.com.

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