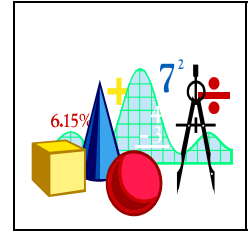


# CONSTRUCTION LAWLETTER

For Industry Professionals, Managers, Trades & Suppliers



**J. NORMAN STARK, ATTORNEY and REGISTERED ARCHITECT**  
JURIS DOCTOR, B. ARCHITECTURE, B.F.A.

The Stark Building • 1310 East 49<sup>th</sup> Street • Cleveland, Ohio 44114-3803

Tel.: (216) 426-8400 • Fax: (216) 426-8411

In Florida • 6500 Midnight Pass Rd. #105 • Sarasota, FL 34242 •  
(941) 349-2061•

E-Mail: [www.Normstark@aol.com](mailto:www.Normstark@aol.com) • Homepage: [www.Jnormanstark.com](http://www.Jnormanstark.com)

Vol. 2004-3

March, 2004

## CONSTRUCTION CRISIS MANAGEMENT

Construction projects frequently derail, leading to increased costs and substantial delays. Although well-intended from the onset to run smoothly and in order, claims of contractor, subcontractor and supplier frequently arise. What causes these situations? More importantly, how can they be properly addressed and managed?

Disputes arising during any construction project may be attributed to numerous causes. Some of the more common causes include: (1) inadequate design drawings and specifications; (2) delays associated with the failure to obtain governmental approval of drawings or work (3) unforeseen conditions discovered at the site; (4) construction changes; (5) inadequate inspection, supervision, and/or coordination; and (7) labor or material shortages.

Although the potential problems associated with any construction project can be numerous, there are several ways of managing these problems once they arise. First, and most important, is to have someone on site capable of speaking the contractor's language and authorized to resolve disputes expeditiously. In days past, this was the job of the Architect, as the owner's personal representative. However, more recently, Architects have abdicated their primary responsibility in this respect, performing very little onsite supervision or coordination, leaving the owner, who rarely has the adequate construction knowledge or experience, to solve all the problems.

When problems do arise however, the immediate participation of a professional Construction Crisis Management Team ("PCCMT"), experienced in both construction and the law, can lead to the expeditious resolution of these problems, as soon possible, without delay, and with the least possible cost to the owner. When problems arise, a skilled construction crisis management team will (1) completely review, analyze, and assess the present situation; (2) resolve all pending issues and claims as expeditiously as possible at the least expense; (3) conduct weekly job site meetings with the Owner,

Architect, and Contractors; (4) limit costs resulting from changes on the project; and (5) after the project is completed, address and resolve whatever claims remain in dispute, through negotiation, arbitration or litigation. A professional management team can get the project back on track, and keep it on track, until the job is satisfactorily completed.

When problems are not resolved expeditiously, the direct costs and indirect effects associated with delays can get out of control. For instance, contractors delayed on a project can recover damages for increased material, equipment, and labor costs; idle time; unabsorbed overhead; and damages for lost efficiency due to overtime or acceleration; out of sequence work; unanticipated weather; and changed site conditions. It is in the Owner's best interests that in order to prevent; or at least minimize these damages, all disputes should be settled as soon as possible, preventing delays.

The Team should protect the Owner's rights and best interests, by limiting the negative effects associated with problems, claims or disputes, including work stoppages that may arise during the construction project. The Team objective is to save the Owner time, added expense, and preserve the right to good project quality.

\* \* \*

## **Management is the art of getting three men to do three men's work**

William Feather

Author: **J. NORMAN STARK** is an Attorney-at-Law (OH Bar), a Registered Architect, (AIA, NCARB) Registered Landscape Architect, Interior Architectural Designer, Planner and Senior Appraiser (ASA). He is admitted to practice law before the Bar of Ohio, the US District Courts, Ohio and Illinois (Central Dist.), the US Court of Appeals, and the U.S. Supreme Court. A former Member of the Ohio Board of Building Standards, he has professional experience in business, Construction, Real Property, Mechanics' Liens, Mediation, Arbitration,

Litigation, Collections, Construction-Legal Management,  
and Litigation Expert Support.

\* \* \*

---