

# THE CONSULTANT'S ROLE;

## *One Man's Opinion*

BY KELLY ROBINSON, CDT, RRO

Consultants are often placed between a rock and a hard place. Property owners expect us to solve all their problems in a two-page report or to make contractors bend to our will with a simple word. Though some of us would like to believe that we have that kind of influence, unfortunately it just isn't so. The American Institute of Architects (AIA) and the Engineer's Joint Contract Document's Committee (EJCDC) both stipulate the designer has no authority over the contractor, nor is the designer responsible for the contractor's workmanship. There are limitations to our authority (places we cannot go), even when we are the designer of record. And there are places we should not go (just because we can do a thing, does not mean that we should do that thing). This paper is not meant as a guide or template for project administration. These are simply one man's views. Have a different opinion? Constructive debate is invited and helps further the process of professionals learning from one another. In this article, references are made to issues particular to roofing, the arena with which the author is most familiar.

To understand the role of the consultant, the circumstances of involvement must first be defined. Typically, there are two conditions under which a consultant is contracted: as an investigator or as a designer. The consultant's role as an investigator is usually initiated by a property owner or an owner's representative seeking an expert opinion when considering a course of action but when the necessary course of action is uncertain. In this situation, there are typically only the two parties involved in the project. The designer, however, is contacted when a course of action has been chosen and knowledgeable personnel are needed to facilitate those actions. This situation is usually more complicated than the previous situation because at some point the contractor (and possibly subcontractors and in some cases a third party project manager) will be added as interested parties. It should be noted that often the position of investigator will transition into that of designer.

### THE INVESTIGATOR

The investigator's role may be identified as follows: An owner knows an action may be called for but is uncertain what that necessary action may be. This realization is often prompted by roof failure, i.e., roof leaks. Some owners have the forethought to consider preventive maintenance. Whatever the case, information is desired from a competent professional. The investigator will visit the subject site, collect measurements, record observations, perhaps test components or assemblies, core sample the system, interview building occupants and/or maintenance personnel, and take photographs. This information is then

arranged in a report that should include observations, calculations, evidence of said observations, conclusions, and often recommendations. The owner can then make an informed decision on the course of action.

When reporting, the consultant is educating the owner on the condition of the subject roof. Some would argue this point, citing that the report should contain just the facts, and maybe provide recommendations, but only when asked. This should not be the case. As the expert, the investigator is obligated to educate the client. This is exactly what the owner is asking for when an evaluation or a condition survey is requested. He wants to know what is currently in place, its condition, how to maintain it if possible, and what is involved in repair or replacement. This is needed to make informed decisions. To submit a technical report in technical jargon to laymen without defining terms or explaining the significance of missing or deteriorated components is a disservice to the client. Many consultants are afraid of qualifying statements made in reports or offering commentary on observed conditions because of something stated in a "risk management" training session. The problem with this is that when given only the facts without qualifying the observations (explaining why a previous repair attempt was misapplied or defining an installation shortcoming), the owner may be destined to make the same mistakes in the future.

This is analogous to the doctor/patient relationship. For example: an individual visits a doctor for a routine physical and afterward is diagnosed with a potentially serious physical ailment. A prescription is given but no explanation is forthcoming. Should the doctor's advice be taken on faith? Most people would have questions.

- What caused the condition?
- Is it contagious?
- Is it hereditary?
- How will it affect everyday life?
- What is this prescription?
- Does it have side effects?
- How long will it have to be taken?
- Are there alternative methods of treatment?

Causes, effects, recommendations, and alternatives. These are all issues that should be addressed by professionals — consultants as well as doctors. Consumers should be wary of professionals who are unwilling to address these questions for fear of litigation. If a professional is not confident in his or her knowledge of the subject on which he is reporting, then maybe he should not be reporting on that subject.

## THE DESIGNER

For the purposes of this article, I will be discussing a tripartite relationship among owners, contractors, and designers. Once the owner decides on a course of action, the designer is called upon to assist in implementation of that action.

The designer is responsible for generating quality contract documents that are founded on sound premise. The viability of the design scope of work is the designer's responsibility. To implement poorly conceived ideas to solve a problem because "the client said so" or "there is not enough money" is sheer folly. Design decisions must be based on sound engineering and rely on industry standards. Admittedly, there are instances where conditions are not always ideal. If there is not enough money to complete the project in the preferred manner, there are alternatives, such as lower-priced roof systems, dividing the project and prioritizing the portions, reducing the scope of work, or delaying the project until funds are available. But to implement a scope of work or a course of action that you as the designer of record believe to be substandard or questionable because the client insists invites liability. It is the owner who will be the first to point the finger at the designer when it fails. And do not count on the courts deciding in the designer's favor if his defense is, "I tried to tell them but they would not listen." Don't just bow to every whim in order to collect a fee. In the end, this can be more trouble than it's worth.

Once there is a quality design based on sound engineering, construction contract administration begins. Helping the owner to choose the contractor and administering the agreement between the two parties can be a difficult task. The designer acts as a bridge between the owner and the contractor. Though the designer is not a party to the agreement, he or she is an interested party of the agreement. To better understand the designer's role in this, it is necessary to understand the relationships among all the interested parties. Generally there is an agreement between the owner and the designer and a separate agreement between the owner and the contractor. There is no agreement between the designer and the contractor, but there is a third party obligation between the two.

According to AIA Document A201-1997, General Conditions of the Contract for Construction, the Designer:

*"...will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Paragraph 12.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract."*

As the owner's representative, the consultant is obligated to act in the owner's best interest, even if the latter's best interests conflict with his wishes. Designers are duty bound to work diligently to convince the owner to change his mind. Concessions will sometime be necessary, but the designer knows the industry, regulatory requirements, and governing agencies. If the owner insists on a course of action that could be detrimental to the project, it is important to remember that it is the designer who will suffer the legal ramifications. Suppose that during an over-roof project the consultant finds saturated insulation in the existing roof system and consequently recommends removal and replacement of the roof system rather than over-roofing. The owner refuses to accept the added expense associated and insists on over-roofing this anomaly. Should this potentially calamitous undertaking continue according to the owner's wishes? There is no disgrace in walking away from a project if the task at hand cannot be properly completed. This holds true whether the consultant is unable to meet the owner's time constraints or not qualified to address the subject matter.

Construction projects are team efforts involving multiple parties. It is important that everyone plays his part. The owner provides opportunity, access, and funding; the contractor handles means, methods, and safety; and the consultant's role is to bring specific knowledge and experience within the technical environment. If consultants cannot stand up and confidently state their opinions or recommendations for fear of legal consequences, then perhaps they do not know their field as well as they should. Furthermore, if a consultant cannot stand his ground before a strong-willed owner for fear of lost revenue, perhaps he should seek another line of work. ■

## ABOUT THE AUTHOR

### **Kelly Robinson, CDT, RRO,**

has been in the roofing industry for five years. He earned his Certified Documents Technologist from CSI and his Registered Roof Observer designation from RCI, and is also an accredited asbestos inspector in the states of North and South Carolina. Robinson earned his bachelor's degree in industrial technology specializing in manufacturing systems from the North Carolina Agricultural & Technical State University.



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