

Call for Construction Monitoring

By Robert N. Roop, P.E.
Lockatong Engineering

When one buys a condominium unit whether it be a new unit having just gone through transition or a resale, one doesn't know the quality of construction of the project. Perhaps there were indications of construction quality in a transition report or in association records of maintenance and repairs. Unfortunately, at that point, you are pretty much stuck with the quality of construction that was delivered by the original builder.

But what can happen if you are embarking on a major construction project on your own as an association? It would be a great idea if you could confirm the quality during construction. Is it up to building code, industry construction practice and plans and specifications developed by a professional engineer for the job? Construction monitoring is one term that applies when the work of a contractor is continually inspected to confirm the work is being done properly.

Some may think that construction monitoring is unnecessary. After all, contractors in New Jersey have to be licensed, carry insurance, obtain building permits, and perform to industry standards. In theory that's correct but unfortunately there are some contractors who don't have the requisite qualifications or certifications and they try to fly under the jurisdiction of local code officials. Then there is the issue of adequate supervision of construction crews. A busy contractor may have a limited number of supervisors moving between active jobs. That could leave your project unsupervised. There are also different skill levels of the individual crew members. Frankly,

the quality and skill level of many in the construction industry has declined. Without an independent third-party performing construction monitoring, you will be at the mercy of the quality a contractor is able to provide.

So where does it start? First, have a detailed specification with plans available for competitive bidding. A professional engineer can prepare these for you. By having a specification, all the selected contractors will be bidding on the same scope of work, with the same materials under the same working conditions. Your engineer can help by pre-qualifying contractors known to provide quality work.

Occasionally we learn of a property manager telling an association "oh you don't need to use an engineer for a specification, I have one for a roofing project that you will be able to use". That property manager is putting himself in a dangerous position. First, he's potentially practicing engineering without license, a fineable mistake. Secondly, even if that specification were a good one, it does not include the configuration and details necessary to properly define the roofing requirements for your buildings. While you may think you are saving the expense of the design specific for your project, you are really asking for trouble.

A properly prepared specification will include the details of your project. Where should specific materials be used, how are the transitions around building components to be constructed? What are the specific details about demolition, preparation, materials storage, waste disposal, facility

access, locations for dumpsters and sanitary facilities? Are manufacturer's representatives to conduct training or inspections and what warranties are to be included?

Once the contract between contractor and association is drafted and approved, the on-site construction monitoring can begin. Often, the engineer will meet with the property manager, contractor, and board members in the kickoff meeting. Site specifics can be clarified like material lay down areas, sequence of work, location for amenities and dumpsters, site supervisor responsibility, daily clean-up and many other factors that will make owners living in the construction project comfortable and able to have the maximum use of their facility.

Once the project is under way, the engineer will want to make site inspections on a regular basis. We prefer to make many inspections at the beginning of a project. This will set the standard of expectations that contractors should become comfortable in executing. At the beginning of the project when materials are delivered the engineer will want to inspect them to confirm that they are those specified for the project. Unfortunately, many water-proofing products are incompatible with each other. The engineer has specified products that are compatible so it is important that only they be on the job site. Any substitution must be approved.

Particularly in exterior renovations like window and door installation, balcony restoration, and roofing projects, execution of details according to plans and specifications is critical. As simple a task as installing a window has an incredible number of details that must be performed to perfection

if the window is not to leak. Are the building vapor and water barrier components lapped and taped properly? Is the rough opening water barrier installed too? Is there a sill pan flashing? How is the head flashing constructed? Is the water barrier and drainage plane continuous? Every single window needs to have those details constructed properly. Imagine

the same degree of attention to detail needs to be performed at every aspect of the building. An engineer on-site early in the project can set that expectation in executing the details according to the plans.

Periodic inspection will confirm that the contractor continues to perform at the standard of quality expected. Photo documentation of the process is

CONTINUES ON PAGE 22

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CONSTRUCTION...

from page 21.

important too. On larger projects an association may want a construction progress report to identify how the project was completed and the standard of quality met their expectations. This can become a valuable document when an individual owner sells a unit in providing a new owner peace of mind that a construction project was completed satisfactorily and there should be no expectation of problems and costs in the future.

Those that have achieved the PE licensure tend to use the AIA document which helps track construction progress and for making progress payments to the contractor. AIA Documents G702 and G703 are

CONTINUES ON PAGE 24

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CONSTRUCTION...

from page 22.

industry standards for "Application and Certificate for Payment" the contractor prepares during the progress of the job. The contractor identifies ahead of time the tasks in the project and a monetary value in each of the tasks. As those tasks are completed, even partially, the contractor submits the forms for payment. Here is where the engineer having completed progress inspections can confirm that the contractor is requesting payment only for the work that actually has been completed. The engineer reviews the payment request, work completion documentation and approves payment by the association. In this way, the payments to the contractor don't get ahead of what is actually completed. An important element in payment requests is that retainage be withheld from each payment. Typically retainage is about 10% of the payment request. This protects the association and helps keep the contractor's attention on the project.

At the end of the project, the engineer, contractor and property manager will conduct an inspection to develop a punch list. Once that punch list has been confirmed to have been completed by subsequent inspections, the contractor can make a final application for payment. Before that final payment can be made, the contractor should turn over to the association all warranty documents, manufacturer instruction manuals, and importantly a final project approval and Certificate of Occupancy from the local code officials. Only when all of that is

CONTINUES ON PAGE 83

TRANSITION...

from page 18.

If the cost to cure and probability of recovery outweigh anticipated expert fees, attorney fees and other expenses, litigation likely makes sense but if the board finds that it is more economical, certain and timely to merely fix the deficiencies itself, it may do so and sign no release. In any case, transition releases should not be signed in exchange for nominal or no consideration.

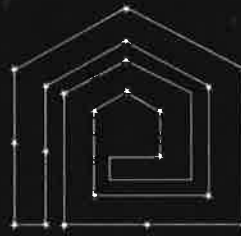
In sum transition is due diligence involving attorneys, experts, managers, board members and association members to cost-effectively resolve physical and financial deficiencies. ■

CONSTRUCTION...

from page 24.

completed should a final payment including retainage be awarded to the contractor.

Construction monitoring may be viewed by some association members and even some board members as an unnecessary expense. Nothing could be further from the truth. The peace of mind in knowing a project has been completed satisfactorily and the knowledge that the association got what it paid for are a demonstration that the board is dedicated to stewardship of the association's resources. ■



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