



3CD·LLC

Dispute Risk Avoidance & Resource Guide

A Practitioner's Handbook for Preventing & Resolving Disputes in Commercial Construction Projects



Presented by
Chris Humphries

Presented to
Confidential Client



Dispute Risk Avoidance & Resource Guide

Forward

Welcome to the 3cd, LLC Dispute Risk Avoidance & Resource Guide! These materials showcase my professional philosophy and lessons-learned from the past 25 years of planning, estimating and building commercial construction projects in the Pacific Northwest. The goal of this offering is to empower users to plan projects in a way that uses a dispute prevention lens to identify and mitigate risks as you progress through the planning, design and construction phases for your project. The Guide includes both a narrative explaining the sources of risks and logic of the approaches suggested at each phase. The guide also includes a list of resources available to help you achieve these objectives.

So how do you prevent costly and stressful disputes? By avoiding the root causes of most disputes; change orders and delays. The strategies, tips and techniques championed in this guide empower the entire team to systematically address and eliminate cost and delay risks. These methods offer important co-benefit as well - improving the entire team's morale, conserving bandwidth, and increasing effectiveness. The efforts, when properly administered necessarily expedite project schedules and company revenues.

In the unfortunate circumstance in which a delay is unavoidable, the same best practices provide you with an efficient and effective defense that, when combined with "guardrails" in your contracts substantially reduces the cost and duration of a dispute.

Introduction

If you have read my bio and project list, you will see that I have worn a few different hats in the industry; always working hard while trying to work smart. I have a natural curiosity to figure out how things are done and why. Seeing the business from the Subcontractor, GC, Owner's Rep, Developer and Entrepreneur perspective has really scratched that itch. Having completed my largest and most difficult project, I have some fresh insight to share and hope you can use the fruits of my labor to improve outcomes on your projects.

We live in interesting times; pandemics, wildfires, labor shortages, supply chain interruption, cost escalation, ever-increasing design complexity, and lots of software tools to learn (but curiously still a lot of paperwork). But most of all, projects are built by people and people cause problems. This resource is designed to help you avoid the most difficult problems - the ones that evolve into disputes. The ones that keep you up at night. The ones that have your loved ones asking if you are ok. The ones that make you wonder if you really want to do this for a living. Yeah, those ones.



Dispute Risk Avoidance & Resource Guide

Introduction Continued...

The reality of construction projects is that things don't always go the way they should. Almost everyone is counting on someone else to have the right materials, equipment and labor to do their job correctly, at the right time, so that the next sequence of work can proceed. Despite the best efforts of everyone involved, one (or more) of those things may not happen and that is going to cost money and take time to overcome.

Worse, the person delayed and burdened with the consequences is often not the same party that caused the problem. The persons at fault may be downright unhelpful, trying to avoid responsibility by any means necessary. Project managers try hard to make things work out fairly, but extra costs and delays can't always be turned into change orders and time extensions. Sometimes we just have to suck it up and sometimes "we" is "you".

If we can't live with that, we end up in a dispute and seek dispute resolution to try to achieve justice. Well, I am here to tell you that there is no justice in the legal system - but there are lots of lawyers and THEY all get paid. Despite the fact that the problem may not be your fault, your contract clearly states this is not your problem (or cost) and your best efforts to stay out of a dispute, you can still be forced into one - This Guide will provide strategies to get that dispute resolved faster and less expensively.

Even if you work for someone else and you are not personally at financial risk, disputes are emotionally draining. You can't help but feel blamed, the curse of hindsight causing you to second-guess your role and work. This Guide will provide strategies to avoid most disputes. If you own a company and your pocketbook is on the line - this Guide will help you sleep at night and keep your money in the bank.

But this is not a pitch to hire anyone in particular (including me), use a particular type of contract or engage in fancy project delivery methods. These insights are designed to work on a traditional design, bid, build delivery process using AIA 101, 201 and 401 lump sum contracts. But these recommendations are also compatible with negotiated and integrated project delivery methods and contracts. To be clear, this is business advice, I am not a lawyer, and this is not legal advice.

Sound good? Awesome! Please enjoy this Guide and reach out to me if you need access to resources to get the most out of these project delivery strategies and tips.

Sincerely,

Chris Humphries





Dispute Risk Resource Guide

Table of Contents

01	Assessing & Mitigating Root Causes of Disputes	1R	Risk Assessment Resources
02	Preventing Disputes in the Design Phase	2R	Design Phase Resources
03	Preventing Disputes in the Pricing Phase	3R	Pricing Phase Resources
04	Preventing Disputes - Contracting Phase	4R	Contracting Phase Resources
05	Preventing Disputes - Construction Phase	5R	Construction Phase Resources
06	Defending & Resolving Disputes	6R	Dispute Resolution Resources

Final thoughts...

As you recall from an earlier section of this Guide, Alcoa's incoming CEO used safety as a lens to identify risks and ended up garnering a new respect from the union employees, which in turn, motivated and empowered the discoveries of new efficiencies while drastically reducing injuries and the costly premiums that go with them.

Could using the lens of dispute avoidance produce a similar outcome for your projects?

Could the strategies and procedures outlined in this Guide reduce change orders and delays expediting revenue for all companies involved?

Could these proactive procedures reduce the combative nature of the construction business and make project management a more enjoyable way to earn a living?

We are all problem solvers - we are "sick like that" but we have our limits, right? But we all love it when a plan comes together. Shaking hands at the end of a project probably means talking about the next project. These things rarely happen at the end of a dispute.

Between market conditions that encourage risk taking, human's propensity to make mistakes and Murphy's law, we should expect problems on construction projects. As projects and market conditions get tougher, we have to find ways to get better, not just smarter.

Technology is doing its part to accommodate the increasing complexity of project designs and streamline communications, but this is a people business and many of the people we are counting on need help to stay (and keep us all out of) trouble. This means better communication, better planning and a better work environment. With strategies, procedures and resources to support these efforts we can all do better, feel better and be well.

END OF GUIDE**Questions? Contact us.**

www.3cdLLC.com

Chris@3cdllc.com

503-312-7232

