

Professional Liability Perspective

Architects and Engineers

Professional Liability Insurance

Program endorsed by



CANADIAN COUNCIL OF PROFESSIONAL ENGINEERS
CONSEIL CANADIEN DES INGÉNIEURS



Association of Consulting Engineers of Canada
Association des ingénieurs-conseils du Canada

Client Selection

If you add up all the hours you have poured into proposals and presentations over the years and then divide the total by the number of jobs you brought in as a result, it should tell you something about the effectiveness of your marketing efforts. It should also confirm the fact that most clients invest a good deal of time—theirs and yours—in choosing a design team to lead their projects through the myriad of difficulties that lie between concept and reality.

They have good reason. Your clients want the very best professional help they can find. They are, after all, looking to entrust you with responsibility for the expenditure of substantial sums of money. Most clients understand only too well the importance of the role you can play in guiding their projects to a successful outcome.

Your own interest in the success of your projects is equally high. Even though your direct financial stake is modest, you assume considerable economic risk every time you take on a new job. Not only do you extend a fair amount of credit (your services in return for a promise to pay), but you put the assets of your firm, your personal assets, and your professional reputation squarely on the line.

Why, then, in selecting their clients, do so few architects and engineers exercise the degree of care their clients do in the selection process? Part of the reason may be that the consequences of taking on a less than ideal client do not seem all that severe when compared with the prospect of new work. Part may also lie in the difficulty most architects and engineers have in knowing where to draw the line.

Consider the very worst case—the truly unsatisfactory client. Remember the uneasy feeling you had the moment that client walked in the door?

You knew things were going to sour, and sure enough, they did. If you were lucky, you came through the ordeal with an overrun or an unpaid invoice you could live with. If not, you ended up spending a good deal of time and money extricating yourself from problems that should never have arisen in the first place.

With the exquisite precision of hindsight, one might well conclude that some jobs are best left undone. The costs are too high, if not in dollars, then certainly in terms of lost opportunity. While you are investing valuable professional resources in marginal projects, you may be bypassing the kind of work you really want.

No project is problem-free. Even some of the most difficult projects represent little more than an extraordinary challenge to your management and communications skills. The key lies in distinguishing those jobs that can be dealt with effectively from those that are virtually guaranteed to produce disastrous results. The question is, how?

There are no hard and fast rules, but there are some indicators that should dictate caution.

Watch for the following warning signs:

Owners with unrealistic and unalterable expectations

After you have exhausted, without success, all efforts to explain to your client why \$55 per square foot will not build the Taj Mahal, there remains but one alternative. You might try conducting a tour to demonstrate just what \$55 is likely to buy. If that fails to bring your client's expectations down to earth, there is no basis for an agreement, and you should end negotiations.

Highly speculative projects

Be especially wary of those with questionable financing and those with owners whose legal identity may be suspect. Downtown Development Associates, Inc. may or may not have the resources necessary to see its project through to completion. It may not even have the wherewithal to pay your fees. If you are uncertain, ask for a financial statement and a copy of the Articles of Incorporation (or the partnership agreement), and have them reviewed by your lawyer and your accountant. You might also ask your banker, who has no small interest in your financial stability, to help you check on the creditworthiness of prospective clients.

Owners with a history of litigation

If you suspect your client may be one of those dubious types looking to sue his way to financial success, take the time to verify your suspicions. Ask for references and call the architects, engineers and contractors who have done his work in the past. If your suspicions are confirmed and you still choose to proceed, arm yourself with the best legal advice you can find. Tough times are likely to lie ahead.

Inexperienced clients

These can include first-time owners, small municipalities and even experienced clients with an inexperienced project staff. At the very least, recognize that you are likely to have to spend a great deal of time explaining the design and construction process and what can be expected as the job goes on. Otherwise, you run the risk that your client will learn through mistakes that can prove costly for both of you.

Partial fees and partial services

A client who refuses to recognize either your need for an adequate fee for your services, or his need to retain you through the construction phase of the work, raises serious questions of intent. If design costs are of overriding concern at the front end, what kinds of decisions are likely to be made about the quality and safety issues that inevitably will arise during construction (with or without your presence)? Clients who restrict field services often do not reduce their expectations of the services that you will provide and will pressure you for approvals and certificates that you may not be able to give. Field services must be well defined.

Ill-conceived projects

These are projects based on highly uncertain, but very important assumptions about future financing, approvals of public bodies, trends in the real estate market, and so on. It would not be surprising for those who pursue such projects to look to you to make their dreams come true. You are the expert who will somehow perform the alchemy needed to turn a bad idea into a good investment. If you succeed, you will be a hero, and you may even get paid for your services. If you fail, you could find yourself an unwilling partner in a losing venture.

Some of the situations characterized above can undoubtedly be dealt with—combinations could well prove to be too much, even for the most skillful and cautious design professional.

