



OP ED: Tips to Help Avoid Costly Construction Problems

By Robert W. Wilkinson

For owners and managers of multifamily projects, the world of construction can be full of traps. Ensuring projects run as smoothly as possible requires tenacity, industry knowledge, and an in-depth understanding of what to focus on at any given time. Here are five tips I for navigating the dangerous and uncertain waters of construction projects.



1. Don't Ignore Problems

Lots of common maintenance and construction problems can be warning signs of a larger construction problem. Managers must be proactive, especially with tenant complaints, and address these problems as completely as possible. Deferred or insufficient repairs can lead to injuries and expensive lawsuits. In one 2018 lawsuit, a Portland court awarded an injured tenant \$20 million in punitive damages; and it was assessed against the owner and manager, who were alleged to have ignored and downplayed needed repairs.

2. Properly Investigate Problems

Owners and managers, usually, are not construction experts. However, experts exist and are available to help assess the damages and the type of repairs required. This could be expensive, but addressing a repair issue up front will save owners and managers a lot of money and heartache in the long term.

3. Don't Procrastinate

If there is a construction problem, the owner might have a legal remedy to recover some money for repairs. However, that is only if there is time within the statute of limitations. Construction defect lawsuits are common enough, but many more cases do not get filed because the time has run out by the time an owner or manager talks to an attorney. Find a problem, fix the problem, and avoid headaches down the road.

4. Construction Contracts Matter

It should go without saying that any contract for design or construction services should, first of all, be in writing. The age of the "hand-shake" deal is long over. Next, what that contract stipulates is critically important. If a contractor is providing the contract, I would expect it to favor the contractor. It might

have a short warranty period shortened statute of limitations, and it might easily allow changes in pricing and scope. In contrast, an owner will want the contract to have more certainty on pricing, completion date and scope changes, a longer warranty, and a dispute resolution section that helps the owner if there is a problem. As always, contracts can be negotiated, so find common ground with the contractor to ensure both parties are content with the contract.

5. Quality Control for Construction

The owner expects to get a certain level of quality in the final product. Depending on the project, it might be enough to have maintenance or management review the process and the work to ensure it hits the appropriate quality standard. However, for complex or larger projects, an owner should strongly consider hiring a representative well-versed in construction. For instance, by the end of the project, someone with an understanding of construction should be going through punch-list items for the owner, getting manuals, warranty information and forms, and making sure there is training for maintenance. Ensuring your construction project satisfies high-quality standards is paramount in maintaining integrity between contractors and owners.

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