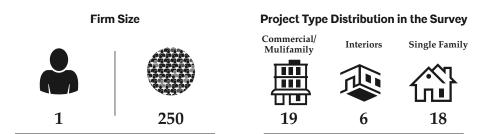
AIA DC NEWS NOVEMBER / DECEMBER 2018 WASHINGTON CHAPTER AMERICAN INSTITUTE OF ARCHITECTS



Permit Study Preliminary Results

Between June 1 and September 1 the Chapter held an open call to collect data on building permits to determine the actual amount of time it takes to get a permit in DC. We started this data collection effort because there was no broad objective data set on how long it actually takes. When we were speaking with folks at DCRA or DOEE we were usually using anecdotal information; we couldn't prove that the data we were citing weren't outliers and that these anecdotes were coloring our perception of the problem.

In doing an open call, we asked the entire Chapter to participate but we are aware that we may be more likely to receive data from people who had bad experiences rather than those who received swift service. The Chapter received data on 50 individual building permits of which 38 projects could be effectively analyzed. The other 12 projects provided incomplete data and so were not usable for the study.



☐ (5.9 months)

Average time for a building permit of any kind Highest: 851 Days; lowest 37 days



(9.4 month)

Commercial Multifamily Average



(3.4 month)

Average time for an Interiors Project



(5.5 months) Average time for

Average time for Single-family residential

(continued on page 3)

MIA Washington DC 421 7th Street NW, 421 7th Street NW, Mashington, DC 20004



Risk Management Tips: Making the Waiver of Consequential Damages Clause Work for You

By Dalene A. Radcliffe, Esq. of Lee/Shoemaker PLLC

It has become commonplace for prudent architects to include a mutual waiver of consequential damages clause in their contracts with project owners since such clauses are designed to protect the parties from liability for damages that they never intended to be obligated for under the contract. Problems often arise, however, when the parties attempt to enforce such standard clauses since the language frequently fails to include a definition of what the parties contemplate "consequential damages" would be. This article briefly addresses the importance of including a definition of "consequential damages" in the mutual waiver of consequential damages clause to ensure enforceability.

Mutual Waiver of Consequential Damages

The standard mutual waiver of consequential damages clause in the AIA Owner-Architect agreements provides that the Architect and Owner "waive all claims against each other for all consequential damages arising out of or relating to the Contract." This language does not expressly define "consequential damage," raising the question – what is covered by this waiver?

When negotiating a waiver of consequential damages provision, the Architect should consider two basic questions:

- 1. What damages does the Architect believe it should be able to recover if the Owner breaches the Contract?
- 2. What damages does the Architect believe it should be obligated to pay if it breaches the Contract?

The Architect should consider whether or not consequential damages includes lost profits, lost rent, or lost opportunities for other (unrelated) projects. After reflecting on these questions, the Architect can negotiate a waiver of consequential damages provision which expressly defines the scope of damages covered by the provision.

Potential Impacts of Failing to Define "Consequential Damages"

Consequences of failing to define "consequential damages" in a contract are shown in Team Contractors, L.L.C. v. Waypoint NOLA, L.L.C., a case decided by the United States District Court for the Eastern District of Louisiana. This case was brought by the Contractor against the Owner seeking to recover damages allegedly incurred during construction. The Owner filed claims against the Architect and MEP, claiming damages in the amount of \$554,903 for alleged lost profits due to the delayed opening of the Project. The Architect filed a motion for summary judgment because the contract contained a joint waiver of consequential damages clause precluding the Owner's lost profit claim. The Owner argued that the consequential damages clause contained in the contract was ambiguous because the parties did not define what they contemplated "consequential damages" would be. The court agreed, concluded that an issue of fact existed as to the intended meaning of "consequential damages," and dismissed the Architect's motion for summary judgment.

The prudent architect should contractually define those "consequential damages" covered by a waiver of consequential damages clause. By exercising sound risk management practices in negotiating a consequential damages clause, a design professional can reduce his or her exposure to unintended damages and to legal fees caused by fighting over what consequential damages are covered.

This article is intended to provide general legal advice and should not be relied on for specific situations. Consult your attorney for specific legal advice applicable to your situation.

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The editorial deadline for each issue is the first day of the preceding month. Submissions received after this date may be held for publishing due to spatial limitations. Editorial contributions and letters are welcome. We reserve the right to edit submissions. Opinions expressed by contributing authors do not necessarily reflect the policies or views of the Washington Chapter/AIA, or its officers, directors, or employees.

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Norman K. Smith, AIA, LEED AP

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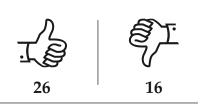
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Permit Study Preliminary Results (continued from cover)

Used an expediter?



We were told that some firms wanted to participate but that they could not because the data on their projects was no longer available through Project Dox. In addition, firms who regularly use expediters may not know where the project is in the pipeline.

The data was analyzed with the goal to determine how long it took for the permit to be issued from the date the project was first entered into Project Dox. That first date was used to calculate how many days it took from that date to get through the first electrical review, the first zoning review, etc. so that the projects are looked at in their entirety rather than getting into the nitty gritty of each review. All building projects have their particular quirks so some of the delays might be explained away due to the particular complications of that project. Even so, the length of time seemed very consistent project to project. Several of the permits were still open at

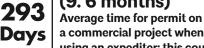
the time of submission. These were not included in the completed data set but were used for some of the other comparisons.

For the 38 projects that could be analyzed the submitters provided mountains of data which we will continue to analyze. The following shows some preliminary results which gives a more complete picture of the process and indicates, at least for the projects submitted, particular logjams in the process. Numbers were calculated using an online date counter to minimize math errors. The Chapter hopes to repeat this study next year and in future years so that we may track improvements.



76% of commercial projects used an expediter

(9.6 months)



a commercial project when using an expediter; this could indicate that the more complex projects

require more time so firms are more likely to hire an expediter rather than the expediter causing the delay.



of Interiors Projects used an expediter



of Single-family residential projects use an expediter

Days since entry....



Average delay between opening a project dox file and upload allowed Longest: 27 days



Average time it takes from submission for 1st HPRB to be completed Longest: 45 Days



Average time it takes from submission for 1st Green **Review to be completed** Longest: 154 days



Average time it takes from submission for 1st DOEE Review to be completed Longest: 688 days

It appears that no matter the size or not of complexity of the project, DCRA can get the project through the initial review in little over a month. What triggers an additional review and how long that subsequently lasts is the piece that is very difficult to control and will be the subject of our next installment which will also include recommendations for DCRA.

Questions or concerns, please contact the author at mfitch@aiadc.com



Average time it takes from submission for first Zoning to be completed Longest: 155 days



Average time it takes from submission for first Structural to be completed Longest: 78 Days



Average time it takes from submission for first Fire **Review to be completed** Longest: 189 Days



Average time it takes from submission for first Electrical **Review to be completed** Longest: 77 Days



Average time it takes from submission for first DC Water **Review to be completed** Longest: 120 Days

CFA Book

The Commission of Fine Arts is pleased to announce the publication of its latest book, *Palace of State: The Eisenhower Executive Office Building*, edited by Thomas E. Luebke. To mark the book's release, the public is invited to a panel discussion and book signing on 10 September 2018 at the National Building Museum. CFA Secretary Thomas Luebke, CFA historian Kay Fanning, and General Services Administration design manager Mina Wright will share insights about this building's complex history.

The Dwight D. Eisenhower Executive Office Building (EEOB) has occupied a prominent place next to the White House for almost 150 years. It was built to house three of the oldest and most important executive departments of the U.S. government (State, War, and Navy) and the building survives as one of the foremost examples of Second Empire design in the United States. It now serves as the home of the Executive Office of the President.

This illustrated history details the building's rich architectural and historical legacy and also documents how the building has evolved over more than a century, both in reputation and use, culminating in the recently completed restoration process that began in the nineteen-eighties.

Featuring beautifully rendered architectural plans, historic images, and lush contemporary photography, Palace of State makes a comprehensive study of this iconic nineteenth-century landmark that continues to serve in its role as a monumental setting for statecraft.

Palace of State:

The Eisenhower Executive Office Building
Thomas E. Luebke, Ed.
\$45 jacketed hardcover, 272 pp.,
272 color & 208 black-and-white illus.
11"x11" format, ISBN 978-1-62534-362-8

Corporate Affiliate Profile



The Financial Planning GroupContact:Joshua Winston, MBAPhone:(703) 394-2408Email:josh@myfpg.net

Volunteer Profile



Jamie Krissoff; HDR, Inc.

Why do you volunteer?

It's fun and rewarding. I enjoy helping the kids draw and build their tiny house models and I value being a part of the community and making a positive impact.

Who: Jamie Krissoff; HDR, Inc.

work with and what is your role?

and a cross section.

What would you say to prospective volunteers?

I would say to prospective volunteers, Go for it because although the work can seem time consuming at first, before long you'll be looking forward to it.

Volunteer Profile



Who: Caitlin Parker; Gensler

What is your involvement with WAF? What programs do you work with and what is your role?

What is your involvement with WAF? What programs do you

I volunteer with Architecture in the Schools and am beginning my third school year with the program. Three of my colleagues and I

teach architecture to second and fifth graders at Hoffman Boston Elementary in Arlington. Classes are activity focused, with students

paper, popsicle sticks, and fabric samples. We teach them skills

drawing in their sketchbooks and building models out of construction

including measuring, scale, and the difference between an elevation

I have been volunteering with Architecture in the Schools for three semesters now. I lead a group of architects from Gensler, and we work with a third grade class at Tubman Elementary in Columbia Heights.

Caitlin Parker; Gensler

Why do you volunteer?

I volunteer because I like working with kids. It's a great way for me to use my passion for architecture to give back to my community.

I benefited from various extra-curricular programs like this as a child so I'd like to be able to pass on that experience to others.

What would you say to prospective volunteers?

If you think a particular WAF program sounds like a good fit for you, then you should definitely give it a try. It's a great way to get involved in the DC community and meet new people. Plus, the kids really love these programs and they wouldn't exist without volunteers like us.

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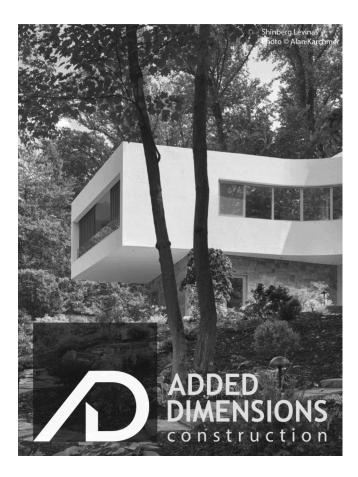




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AIA DC MEMBER NEWS

D

Marc DeOcampo, AIA, AICP, has been named Executive Assistant of Administration at the Mayor's Office of Frederick, Maryland. DeOcampo is a licensed architect and certified urban planner and holds a bachelor's degree in architecture from The Catholic University of America and a master's degree in urban design from Columbia University. He worked for The City of Frederick's Planning and Community Development Department from 2004 to 2007 and since 2016, has worked in facilities management for The Johns Hopkins University. He will lead strategic planning Citywide, including research on potential legislation, and will oversee internal departmental coordination to carry out the City's mission.



International planning, architecture, engineering and interiors firm **LEO A DALY** has hired Debra R. Crafter to lead small business engagement for its federal business development team. As small business program manager, Crafter will engage with and support small businesses partnering with the firm on federal design projects and contracts. She is based in the firm's Washington, D.C. studio.

Debra R. Crafter

Crafter draws on more than 25 years of experience in sourcing, procurement,

contracts and management, and a proven track record of partnering with small businesses to grow their capabilities and deliver successful projects to the federal government. She joins LEO A DALY from CenturyLink Government, where she led strategic sourcing and small business programs.

H

HDR has signed a strategic alliance agreement with DelosTM, a wellness real estate technology firm that pioneered the WELL Building StandardTM. The alliance's intent is to advance health and wellness innovations and outcomes-driven design in the built environment.

The HDR and Delos alliance aims to develop strategies to integrate wellness as a primary goal in built environment design and to systematically integrate health and wellness goals very early in the design process. Initial design areas to be focused on will include access to daylight, acoustical environment, access to views, and impacts of spatial decisions on workplace outcomes including collaboration and productivity.

Р

Landis Architects/Builders recently won two awards for its design work in DC. In Capitol Hill, a roof deck on a historic townhome won a Platinum award from Professional Remodeler magazine. The company also won a Silver award for a contemporary master bathroom renovation. The project designer on both projects is Chris Williams.



Platinum Award winning Capitol Hill Roof Deck



Silver Award for a Contemporary Master Bathroom Renovation



Steve Boxall/Zero Gravity Corporation

Proving that architects never stop earning continuing education credits, **Arthur Cotton Moore**, at age 83, recently experienced weightlessness courtesy of the Zero Gravity Corporation in a specially modified Boeing 727-200F that is used to train NASA

astronauts. The degree of weightlessness varies according to the flight profile and duplicates Mars, Lunar and zero gravity conditions. Wisely, the participants in the photo are reaching out for handholds to avoid flipping over or careening into the other participants as the experience begins.

Q

Quinn Evans Architects has

announced the promotion of three professionals in its Washington, D.C., office. Devon Hogan, RA, LEED AP BD+C; Anne Kopf, AIA; and Atara Margolies, AIA, LEED AP, have all been promoted to architect.

Devon Hogan holds a Bachelor of Architecture from Howard University (2013). He specializes in educational facility design and renovation; projects include Kramer Middle School and

Van Ness Elementary School in Washington, D.C.

Anne Kopf has contributed to multiple restoration projects including the Daughters of the American Revolution headquarters in Washington, D.C. Kopf is a member of the American Institute of Architects and holds a Master of Architecture from the University of Maryland (2014) and a Bachelor of Arts in Graphic Design from Illinois Wesleyan University (2008).

Atara Margolies has worked on many renovation projects in the region including the modernization of the historic Stratford Middle





Atara Margolies

Devon Hogan

School in Arlington, Va. Margolies is a member of the American Institute of Architects and holds a Master of Architecture (2004) and a Bachelor of Arts in Architecture (2000), both from the University of Pennsylvania.

S

LEO A DALY has hired **Leslie L. Shepherd, FAIA**, to lead the firm's General Services Administration (GSA) market sector. As market-sector leader for GSA, Shepherd will work with senior leadership to strengthen, grow, and advance the firm's GSA practice. He is based in the firm's Washington, D.C. studio.

Shepherd draws on 28 years of experience in design leadership at the U.S. General Services Administration,



Leslie L. Shepherd, FAIA,



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AIA DC MEMBER NEWS

and four years in the private sector focused on GSA work. As Chief Architect of the Public Building Service for 12 years, he was responsible for the Design Excellence program across 11 regional offices. He served as senior advisor to the administrator and commissioner, and provided national leadership for GSA regarding design and construction policy, quality, and innovation. He joins LEO A DALY from EYP, where he was Director of Planning.

W

Winstanley Architects & Planners (WA&P) is the new Executive Architect for the Global War on Terror (GWOT) Memorial Foundation, the congressionally-designated non-profit foundation tasked with organizing, fundraising and coordinating efforts to build a new memorial on the National Mall in Washington, D.C. In this role, WA&P will manage and oversee the 24 step process required by the National Capital Planning Commission (NCPC) and National Capital Memorial Advisory Commission (NCMAC) to design and build a memorial in Washington, D.C. The GWOT Memorial Foundation is focused on advocating for land within the National Mall and , at the same time, the Foundation and Winstanley will collaborate to gather input from the veteran community and the public.

AIA|DC members may submit "Member News" items to newsletter@aiadc.com.

AIA DC NEWS

Change from PAPER to DIGITAL FORMAT

So as not to be accused of being technology Luddites, this December 2018 issue of the newsletter is the last to be distributed in hardcopy, paper format.

Beginning with the January/February 2019 issue, the newsletter will be produced and distributed as a pdf file and emailed to all members every other month and will use a page-turn or similar application to make viewing easy; it will also be provided as a link to a web-hosted document.

The switch from paper to digital has several advantages. No paper means we will save some trees and some postage fees. Although all of the features and content will remain as will the general format and size, the move to digital will allow the newsletter to include color in the layout, allow the use of links to increase usability and also provide a more flexible framework for new features and information. So, although the feel of paper may be missed, remember that your old newsletter paper copies will start appreciating in value after the first of the year, just like a rare manuscript.

Norman K. Smith, AIA, LEED AP, Editor and on behalf of the AIA|DC staff

The Announcement of the Decade

Revised AIA core documents are now available

Like the Agave Americana, the plant that blooms every ten years, the core set of AIA Contract Documents is only updated every ten years. This ensures your design and construction projects are protected against changing industry trends and needs.

In the 2017 versions of AIA contracts, you can now use fill points to prompt the parties to discuss and insert a "Termination Fee" when necessary, and there is a new evaluation provision by the architect, if the contractor proposes alternative means and methods. Plus, make any AIA contract appropriate for a sustainable project with the new Sustainable Exhibit.

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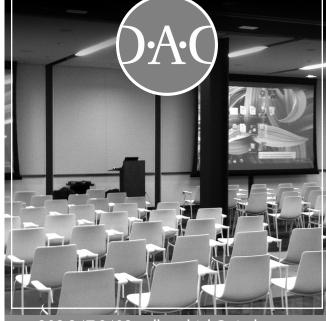
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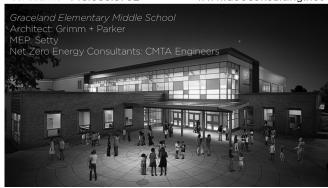
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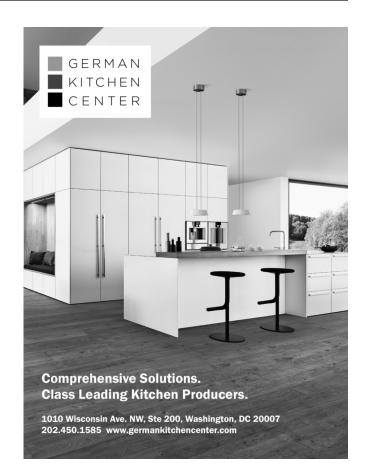


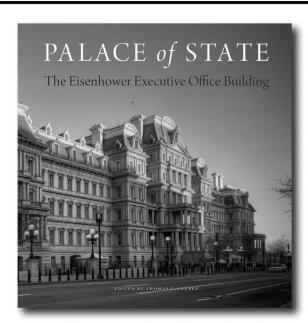
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