

What Do I Do If The Developer Tells Me That My Professional Errors And Omissions Are Covered By The Wrap Policy Or That There Is A Project Policy In Place Covering The Design Team?

This issue comes up on a weekly basis. The bottom line is that, as explained above, the Wrap policies do not cover professional liability, period, unless the exclusion has been deleted, and then, *still*, only bodily injury and property damage are covered. ***Always ask the Developer for an actual copy of the Wrap policy and then provide it to your professional liability insurance broker and your attorney to review and confirm the coverage.***

With respect to the Project policies, if the Developer says there is one in place, then great. However, you must again ask to see a copy of the actual policy and then provide it to your professional liability insurance broker for confirmation of coverage. ***My partner, Jean Weil, and I, are in the process of negotiating contracts on behalf of Architects for many of the high-profile condominium projects in Las Vegas and California. We have yet to see an actual copy of a Wrap policy that covers the Architect's errors and omissions, despite numerous requests. Further, we have only one instance where a project policy was purchased by the Developer covering the design team.*** In other words, you should not be relying on such policies to cover or eliminate your exposure on condominium projects.

In light of the fact that Wrap policies really do not cover the Architect from and errors and omissions standpoint, and Project Policies are very difficult for Developers to find for the price they want to pay, the Developers are left to rely on the Architect's practice policy. That is, you end up providing services for one of the riskiest types of projects in existence, with no better insurance coverage than for any other type of project. This means that if you are going to provide services for a condominium project, **you must have a great client, a great project and a great contract.**

Risk Management Policy For Condominium Projects

After numerous meetings and discussions regarding condominium projects over the past year, Jean and I developed a Risk Management Policy for Condominium Projects. The Policy is based upon numerous articles, contract guides by the various professional liability insurance companies, and an understanding of how the courts in our respective jurisdictions are treating various contract provisions, not to mention construction defect litigation in general. Of course, the courts and juries can be as consistent with contract interpretation and standard of care issues as contractors are in interpreting the Uniform Building Code. Thus, unfortunately, there is no "bullet proof" contract, let alone a Risk Management Policy that will *prevent* lawsuits.

The following are tools to, at the very least, assist in managing and hopefully minimizing your exposure when litigation eventually ensues on these types of projects.

1. Carefully screen the DEVELOPER: