

- a. Do you know the Developer?
- b. Is the Developer an LLC?
- c. Does the Developer have a history of litigation?
- d. Does the Developer have a good reputation?
- e. Is there adequate financing?
- f. Is there commitment to quality?
- g. Has the developer done other multi-family projects, and specifically condominiums, and were they successful?
- h. Does the developer have a long track record and is it likely to be around in the future?
- i. Will the developer build the project with its own forces or act as a “paper developer”?
- j. What are the contractor selection criteria?
- k. What is your overall gut feeling about the developer?

IF you have no history with this Developer, and your research reveals questionable results, then we recommend that you reject the project. I am representing a client who accepted a job three years ago without performing a simple check on the Developer’s litigation history. After the Developer refused to pay my client the remaining amounts due on the contract, and after the Developer sued my client for errors and omissions, we discovered that the Developer was a plaintiff in 35 lawsuits over the past ten years, and a defendant in just about as many lawsuits. If such a search had been performed *before* the project, my client most certainly would never have taken the job. Contact a lawyer in your jurisdiction whose legal practice focuses on the representation of design professionals. He or she will be able to discuss with you the process for conducting such a search or simply conduct the search for you. (And no, the client referenced above was not my client at the time he took on the project, and thus I did not have the opportunity to advise him regarding such a search!)

2. Carefully screen the PROJECT:

- a. What type of project is it? (wood-framed, high-rise, low-end)
Conventional wisdom says that luxury high-rise condominium and hotel-condominiums might not be as likely to end up in litigation. Low-rise or wood-framed buildings are the greatest risk.

IF you have a good relationship with the Developer and your research yields favorable results, and IF the project is “lower risk”, then proceed into contract negotiations and see how badly this Developer wants to use you for this condominium project. IF the Developer is willing to sign a good contract, then the benefits may outweigh the risks of taking on the condominium project.

3. Ensure that the CONTRACT properly addresses the allocation of risks associated with the project. What type of contract is the proposed Developer willing to sign?