

f. Construction Observation. The idea is that the Architect's presence at the site may help to recognize potential problems. If the Developer does not want to retain you to provide Construction Administration services or at least limited observation services, then consider the risks of not being involved in the construction process and make sure that your decision is well-documented.

g. Require Confirmation of Your Consultants' Insurance Coverage. Require your consultants to submit to you a certificate of insurance to verify that they are adequately insured. Preferably, have all subconsultants on condominium projects enter into contracts directly with the Developer. The Architect may still coordinate the work of the consultants, but you do not want the added legal liability of entering into contracts with said consultants (also known as "vicarious liability".)

h. Maintenance Manual. Encourage the Developer to be pro-active by inserting Developer responsibilities such as the following into your contract with the Developer:

"The Developer agrees that the bylaws of the Homeowners' Association established for this Project will require that the Association will perform, as recommended in the Maintenance Manual, all necessary routine maintenance, maintenance inspections and any other necessary repairs and maintenance called for as a result of these maintenance inspections. The bylaws shall also contain an appropriate waiver and indemnity in favor of the Client, the Architect and all Consultants and the Contractor if the maintenance recommendations contained in the Maintenance Manual are not performed."

Have a similar clause applying to the individual homeowners.

i. Third Party Quality Control Company. Insert language requiring the Developer to retain a third party construction inspection service to perform a technical review or peer review of the plans and specifications and to monitor construction:

"The Developer shall retain and utilize an independent third party construction inspection service to perform a technical review of the approved plans and specifications and to monitor construction of the project and report any defects, disparities, errors or omissions to the Developer. The Developer will insure that all recommendations for repairs, corrections or changes are accomplished."

4. Carefully document all meetings, observations and conversations pertaining to the project. In particular, note any recommendations you make that are not followed.