

PROXEMNITY

RISK EDUCATION



A Home is Not a House

In this claims story, an architect fails to record his client's instructions and confuses residential ambience with institutional requirements; meanwhile, shoddy workmanship goes unobserved by the engineer.

PARTIES

Plaintiff

Board of Directors, Golden Dale Home for the Aged (Owners)

Third Party

Sutton Gust, Mechanical Engineer

Defendants

Martin Pecunius, Architect, General Contractor,
Micro Mechanical, subcontractor,
Senex General Contractor.

CONTEXT

The Architect designed a Home for the Aged, based on the instructions of the Board's chairwoman and another appointed Board member. He was told that no funds were available for air-conditioning, this being Canada and not "the sunny south." This fact is not disputed; however, the decision was later made that air conditioning was necessary and money was found to provide it.

PLEAS

The board claimed that the ventilation and cooling system was a “disaster” that had resulted in clients passing out for lack of air and high temperatures. The original consultants had failed to devise remedies, so third party consultants were engaged. These consultants found gross inefficiency in the air handling, a 60% loss of air pressure due to duct leakage, undersized condensers and an absence of required thermal zoning.

The architect Pecunius replied that the Home had been designed to budget-conscious residential standards, not institutional. Also, the site was near a main highway, creating lots of noise and dust, and the need for security against unobserved exits dictated that any openings had to be small.

Pecunius had met with the chairwoman, and an agreement was reached that the air conditioning would be a low-cost, minimum job “to take the temperature down a little on the hottest days.” The architect so instructed the mechanical engineer. The engineer added an air conditioning unit to the heating system, which was domestic style hot air, with tubular ducts.

Pecunius maintained that he relied on his engineer, however, the system was never intended to meet the use and occupancy that the building now had. Not only had the board underestimated the number of residents, but also many of them were dumping their belongings onto the air registers.

The engineer Gust said that the minimal contract called for three site visits during the construction, which meant that he did not observe workmanship, such as ductwork, that had been covered. He had followed the architect’s instructions, doing the same as he would for any large house in any suburb. Most homes, even large ones, have only one zone and are cooled through the hot air system, as was this building.

SETTLEMENT

The architect could produce no written evidence of his design brief, of the instructions to design to residential minimal standards, or of the decision to provide a minimal cooling system. The owners could not recall giving any such instructions, indeed, denying that such standards were ever contemplated. The engineer was a sub-consultant of Pecunius, under his direction.

Pro-Demnity felt the defence was too weak to dispute the allegations and settled the matter.

CLAIMS CONTROL ANALYSIS

Architects must put their client's instructions in writing and have the client sign off on them.

If it were true, as we believe, that the verbal instructions had been given as the architect stated, it still may not have exonerated him. He may have had a duty to guard the owners from their own folly, and to insist upon a budget large enough for an adequate level of engineering input. The group consisted of social workers and volunteers who were not knowledgeable about such things. The system they allegedly requested, could never have provided acceptable comfort levels.

The architect's laudable desire to provide a minimal cost building and consulting service for this charity led him astray.

LESSONS TO BE LEARNED

Lesson 1: Get it in writing. If the Architect had put the client's instructions in writing in the first place, and had the client sign off on them, a lot of grief could have been avoided

Lesson 2: If consultants are hired separately by your client, you may avoid being involved in legal actions against them. Failing that, you should at least make sure that consultants are adequately insured. Insist upon a budget that allows an adequate level of Engineering input

Lesson 3: Don't allow your sympathy for a client's self-declared poverty to lead you into making poor decisions.

Lesson 4: Clients have a right to rely on an architect's professional knowledge. When clients make decisions based on their own lack of knowledge, architects may have an obligation to step in, to protect them from themselves.

Names and places have been changed to protect the innocent, and partially innocent, also the guilty. Situations are slightly modified and fictionalized from Pro-Demnity's actual claims files and imbued with our real experience in protecting and defending Ontario architectural practices over three decades.

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