Construction Defect Litigation from the Plaintiff Perspective

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Pete Fowler CONSTRUCTION Services, Inc.

Construction Defect Litigation from the Plaintiff Perspective

INTRODUCTION

Construction Defect Litigation from the Plaintiff Perspective is a series of case studies in successful planning, analysis and execution of expert work on behalf of plaintiff real property owners. This program will walk you through the process, standards and reasoning for inspection, analysis, testing, reporting, specifying repairs, and estimating costs of the repair work.

Construction defect litigation can be expensive, confusing and long lasting, but it doesn't have to be. Through this presentation, PFCS will break down the process, and provide approaches and alternatives that add value to property owners involved in Construction defect litigation.

PROGRAM OUTLINE

1. Introduction
2. In the Beginning
3. Inspection & Evaluation
4. Analysis & Estimate
5. Testing
6. Reports and Possible Further Work
7. Conclusion

LEARNING OBJECTIVES

- Discuss building performance analysis standards
- Discuss various strategies for approaching construction defect cases from the plaintiff's perspective
- Outline a beginning-to-end process for handling construction defect litigation
- Show real-life case studies applying various approaches to construction defect litigation matters
- Show examples of good work

BACK-UP MATERIALS (CASE STUDIES)

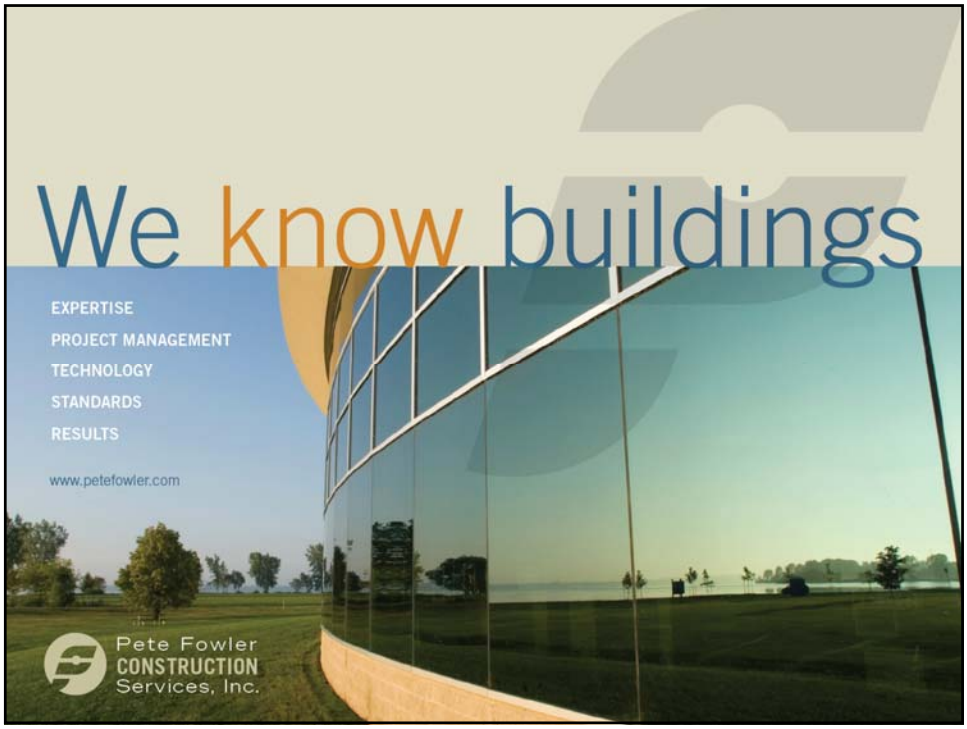
1. Small Multi-family Project (PFCS 06-295)
2. Small Single Family Project (PFCS 15-165)
3. Small Commercial Project (PFCS 15-121)
4. Medium Multi-family Project (PFCS 14-320)
5. Medium Commercial Project (PFCS 15-161)
6. Medium Residential Project (PFCS A2-124)
7. Medium Multi-family Project (PFCS 12-281)
8. Large Residential Project (PFCS 14-301)

PROGRAM CONTENTS

1. Introduction
    A. Presenter Information
    B. Webinar Materials
    C. CE Certificates
    D. Feedback
    E. Learning Objectives
    F. Property Condition Assessment (ASTM E2018)
    G. Building Leak Evaluation (ASTM E2128)
    H. PFCS Building Performance Analysis Method
    I. Plaintiff Project Process Flowchart
    J. Case Study
2. In the Beginning
    A. Project Intake
    B. Strategy
    C. Plan & Proposal
    D. First 10 Things
    E. Issues List
    F. Case Studies
3. Inspection & Evaluation
    A. PFCS Building Performance Methodology
    B. Standards for Inspection and Evaluation
    C. Distillation and Utilization of gathered data
4. Analysis & Estimate
    A. What is a Construction Defect?
    B. What Should Be Fixed!?
    C. Logic & Critical Thinking
    D. IIACC Method and Issue by Issue Analysis
    E. Plans, Specifications, Codes, Standards
    F. Repair Estimating
    G. Case Studies
5. Analysis & Estimate
    A. PFCS Building Leakage Evaluation Seminar
    B. ASTM E2128 Standard Guide for Evaluating Water Leakage of Building Walls
    C. ROI
    D. Investigation Documentation
    E. Case Studies
6. Testing
    A. PFCS Building Leakage Evaluation
    B. ASTM E2128 Standard Guide for Evaluating Water Leakage of Building Walls
    C. ROI
    D. Investigation Documentation
    E. Case Studies
7. Reports and Possible Further Work
    A. Strategy
    B. PFCS Communicating in Writing
    C. Inspection Summary
    D. Issues List
    E. Testing Summary & Maps
    F. Opinion Letter
    G. Report
    H. Specifications and RFPs to Contractors
    I. Others Possible Work
    J. Case Studies
8. Conclusion
    A. Learning Objectives
    B. Program Outline
    C. Back-Up Materials
    D. Recommendations
    E. Webinar Materials
    F. CE Certificates
    G. Feedback
    H. Program Outline

BACK-UP MATERIALS (CASE STUDIES)

1. Small Multi-family Project (PFCS 06-295)
    A. Inspection Notes and Photos
    B. Issues-Discussion Matrix
    C. Scope and Estimate
    D. Opinion Letter with Recommendations
2. Small Single Family Project (PFCS 15-165)
    A. Plan and Proposal
    B. Document Summary
    C. Property Condition Assessment (Report)
3. Small Commercial Project (PFCS 15-121)
    A. Proposal
    B. Document Summary
    C. Property Condition Assessment (Report)
4. Medium Multi-family Project (PFCS 14-320)
    A. Inspection Summary ready for litigation
    B. Issues List
    C. Testing Plan
5. Medium Commercial Project (PFCS 15-161)
    A. Investigation Report and Map
    B. Report with Maps
    C. Specifications
6. Medium Residential Project (PFCS A2-124)
    A. Defect List
    B. Estimate
    C. Report
7. Medium Multi-family Project (PFCS 12-281)
    A. Report
    B. RFP to Contractors
8. Large Residential Project (PFCS 14-301)
    A. Contracting Recommendations
    B. Architectural Expert Memo in response to RFP
    C. Owners, Attorney, and Expert Meeting Agenda



Construction Defect Litigation from the Plaintiff Perspective

Pete Fowler CONSTRUCTION Services, Inc.

2015

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1. INTRODUCTION

PFCS: Who We Are

SOLUTIONS

We are a team of construction experts and project management professionals who specialize in creating REAL PRACTICAL SOLUTIONS for property owners & managers, builders & developers, construction contractors, product manufacturers & suppliers, lawyers and insurers.

1. INTRODUCTION

PFCS: We Know Buildings

1. INTRODUCTION

PFCS: We Know Buildings

CLIENTS

- Property Owners & Managers
- Builders & Developers
- Contractors
- Product Manufacturers
- Insurers
- Lawyers

1. INTRODUCTION

PFCS Services

BUILDING LIFECYCLE

Building Inspection, Testing and Property Assessment

Specifications for Building Maintenance and Repairs

Construction Budgets and Cost Estimating

Construction Management

Quality Assurance Plans and Inspections

CLAIMS & LITIGATION

Construction Defect Litigation (Also see BLM)

General (Property) Liability Claims

Construction Accidents

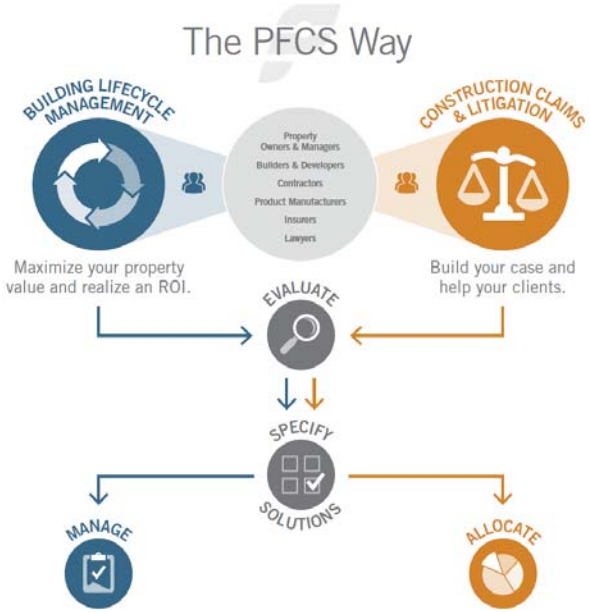
Traditional Claims related to contracts, payments, performance, change orders and delays

1. INTRODUCTION

The PFCS Way: SOLUTIONS

- **EXPERTISE:** Technical experts who are focused on real practical solutions is surprisingly hard to find. We found them. And we work to keep that focus.
- **PROJECT MANAGEMENT:** To deliver valuable work with measurable return on investment (ROI), we have to manage the Scope, Budget and Schedule of our work.
- **TECHNOLOGY:** We use proprietary technology to create valuable work faster, better and cheaper, to make the information available to all applicable stakeholders, and to create a permanent digital record at no extra cost.
- **STANDARDS:** To help clients manage building lifecycle performance and costs, we compare each project to industry standards and best practices, then apply professional judgment to develop strategies and step-by-step plans for maximizing ROI for maintenance and repair expenditures.

1. INTRODUCTION



Read about industry impacts on our blog at **www.petefowler.com**

The PFCS Way

ON ALL PROJECTS

Building Information Management: We pick up where Zillow and Google leave off. We use technology to collect, organize, structure and store documents and building info forever.

Evaluate Performance: We perform structured building inspection and testing evaluations, exceeding the highest standards.

Specify Solutions: We analyze, report, make recommendations and compose specifications and estimates for construction, maintenance & repairs.

BLM OR LITIGATION?

Manage Quality: We apply professional construction management discipline to get work done, and create and execute construction quality assurance plans.

Allocate Responsibility: For insurance and legal clients we use our expertise in evaluating, specifying and managing construction to compare what happened in problem projects to what should have. We apply professional judgment to allocate responsibility.

Program Outline

1. Introduction
2. In the Beginning
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4. Analysis & Estimate
5. Testing
6. Reports and Possible Further Work
7. Conclusion

1. INTRODUCTION

Introduction

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C. CE Certificates
D. Feedback
E. Learning Objectives
F. Property Condition Assessment (ASTM E2018)
G. Building Leak Evaluation (ASTM E2128)
H. PFCS Building Performance Analysis Method
I. Plaintiff Project Process Flowchart
J. Case Study

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Learning Objectives

- Discuss building performance analysis standards
- Discuss various strategies for approaching construction defect cases from the plaintiff's perspective
- Outline a beginning-to-end process for handling construction defect litigation
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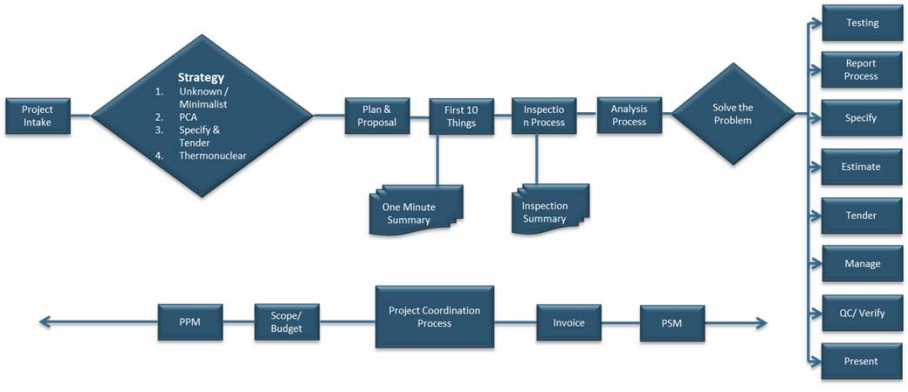
- Show examples of good work

Process Flowchart



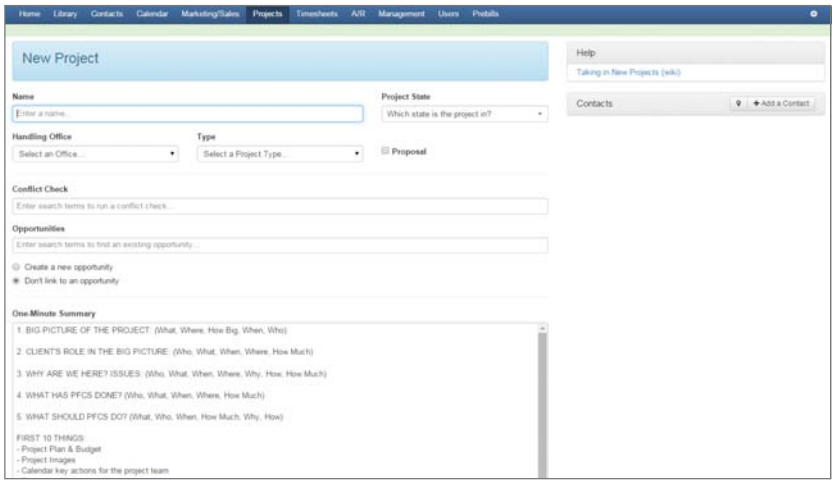
Case Studies

1. Small Multi-family Project (PFCS 06-295)
   A. Inspection Notes and Photos
   B. Issues-Discussion Matrix
   C. Scope and Estimate
   D. Opinion Letter with Recommendations
8. Large Residential Project (PFCS 14-301)
   A. Contracting Recommendations
   B. Architectural Expert Memo in response to RFP
   C. Owners, Attorney, and Expert Meeting Agenda

2. IN THE BEGINNING

Contents

Project Intake



Strategy

Options

A. Unknown / Minimalist
B. PCA
C. Specify & Tender
D. Analyze Completely & Present Formally

Plan & Proposal

Line	Scope of Work / Deliverables	Status	Original Plan		Current Plan	
			Hours	Costs	Hours	Costs
1	Level 1: Preparatory Work					
2	A. Client Access Information (including One Minute Summary)		2	$ 290.00	2	$ 290.00
3	B. Images and Information		1	$ 145.00	1	$ 145.00
4	C. Issues / Inspection Checklist		2	$ 290.00	4	$ 580.00
5	D. Document Index		2	$ 290.00	8	$ 1,160.00
6						
7	Level 2: Preliminary Investigation					
8	A. Document Review and Summary		4	$ 580.00	16	$ 2,320.00
9	B. Interviews with Key Players		2	$ 290.00	4	$ 580.00
10	C. Visual Inspection: Prepare, Execute, Process Documentation		16	$ 2,320.00	20	$ 2,900.00
11	D. Contract Summary		2	$ 290.00	3	$ 435.00
12	E. Meetings / Telephone Conferences		0	$ -	8	$ 1,160.00
13						
14	Level 3: Analysis					
15	A. Update Issues Lists		4	$ 580.00	4	$ 580.00
16	B. Preliminary Analysis (Issues-Discussion Matrix)		6	$ 870.00	16	$ 2,320.00
17	C. Opinion Letter w- Recommendations		10	$ 1,450.00	24	$ 3,480.00
18	D. Players List		2	$ 290.00	4	$ 580.00
19	E. Meetings / Telephone Conferences		0	$ -	8	$ 1,160.00
20						
21	Level 4: Detailed Analysis					
22	A. Testing Protocol				4	$ 580.00
23	B. Testing: Coordinate, Conduct and Process Documentation				32	$ 4,640.00
24	C. Issues List Update				8	$ 1,160.00
25	D. Finalize Analysis (Issues Summary Report)				24	$ 3,480.00
26	E. Construction Cost Estimate (Level 4)				24	$ 3,480.00
27						
28	Level 5: Final Analysis					
29	A. Presentation Outline				8	$ 1,160.00
30	B. Presentation				32	$ 4,640.00
31	C. Meetings				16	$ 2,320.00
32	D. Deposition Testimony				40	$ 5,800.00
33	E. Trial Testimony				40	$ 5,800.00
34						
35						
36	Total		53	$ 7,685.00	350	$ 50,750.00

First 10 Things

A. Project Plan & Budget
B. Project Images
C. Calendar key actions for the project team
D. Document Management
E. Project Timeline (5-20 key events)
F. Project Players (3-15 key players)
G. Locations/Components/Issues
H. Client Access Invitations
I. If there is nothing to do, calendar a note…
J. Review with the Expert or Technical Lead

Issues List

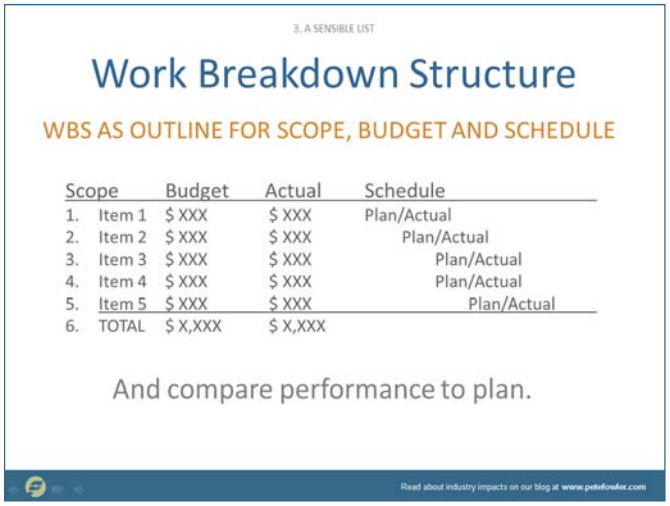
A. “A problem well stated…”
B. A Sensible List
C. WBS
D. Uniformat

2. IN THE BEGINNING

Issues List

2. IN THE BEGINNING

Issues List



Issues List

Organizational Schemes

UNIFORMAT (PFCS STANDARD)

Level 1 Structure

A. Substructure
B. Superstructure
C. Interiors
D. Services
E. Equipment & Furnishings
F. Special Construction & Demolition
G. Building Site work
H. Other

UNIFORMAT (PFCS STANDARD)

B 2010 Siding
- Leaks
- Incorrect Nailing

B 2060 Exterior Paint
- Deteriorated Trim
- Delaminating

B 3001 Roof
- Damage
- Leaks
- Missing Underlayment

C 3011 Interior Paint
- Inadequate Coverage
- Wrong Color

Case Studies

2. Small Single Family Project (PFCS 15-165)
   A. Plan and Proposal
   B. Document Summary
   C. PCA
4. Medium Multi-family Project (PFCS 14-320)
   A. Inspection Summary ready for litigation
   B. Testing Plan

3. INSPECTION & EVALUATION

Contents

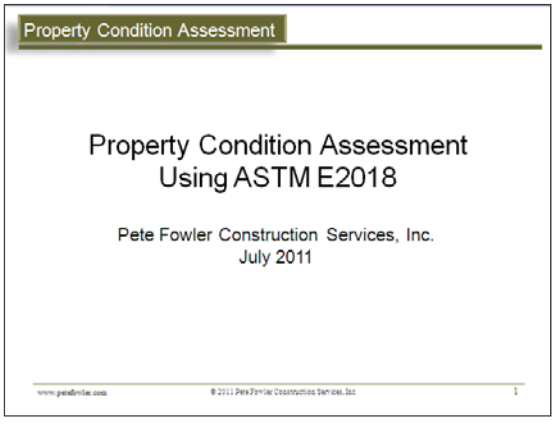
A. PFCS Building Performance Analysis Standards
B. Standards for Inspection and Evaluation
C. Distillation and Utilization of gathered data
D. Case Studies

Inspection & Evaluation

- Property Condition Assessment (ASTM E2018)
- Evaluating Water Leakage of Buildings (ASTM E2128)
- PFCS Building Lifecycle Management
- Other Inspection & Testing Standards
- Prioritizing
- Case Study

Property Condition Assessment

- Document Review and Interviews
- Walk-Through Survey
- Opinions of Probable Costs to Remedy Physical Deficiencies
- Property Condition Report (PCR)

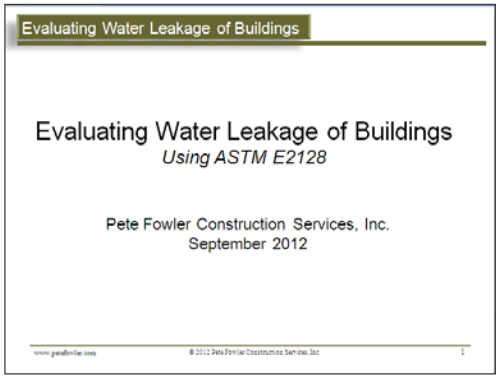


3. INSPECTION & EVALUATION

Building Leak Evaluation

Systematic Approach to an Evaluation: Overview

1. Review of Project Documents
2. Evaluation of Design Concept
3. Determination of Service History
4. Inspection
5. Investigative Testing
6. Analysis
7. Report Preparation



3. INSPECTION & EVALUATION

Building Performance Analysis

PFCS BPA PROCESS

1. Document & Information Management
2. Meetings/Interviews with Key People
3. Building Information Management
4. Inspection
5. Analysis
6. Testing (Only as Necessary)
7. Estimate
8. Report/Property Condition Report (PCR)

Other Inspection & Testing Standards

- ASTM E1105 Standard Test Method for Field Determination of Water Penetration: 5 page test method; a procedure for determining the resistance to water penetration of windows and doors.
- AAMA 511-08 Voluntary Guideline for Forensic Water Penetration Testing of Fenestration Products: 11 pages. Offers a method & systematic approach for testing of fenestration products.
- AAMA 502-08 Voluntary Specification for Field Testing of Newly Installed Fenestration Products: 10 pages. Field test apparatus, sampling, test procedures and reports used in verifying water penetration resistance.
- PFCS Building Inspection and Testing: Our practices re: analysis of building performance from design, through construction and use.

Prioritizing

PLAYING DOCTOR

3. INSPECTION & EVALUATION

Prioritizing

PLAYING DOCTOR

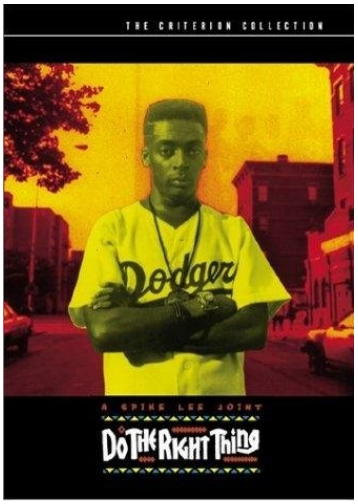
- Playing (Building) Doctor: Examine, Diagnose, Prescribe
- Hippocratic Oath
- Examine: Structure, Standards
- Diagnose: Its not always obvious
- Prescribe: Do the right thing(s). And remember that one size does NOT fit all.
- Over Engineering: Not everyone can afford it.
- Evaluate: Apply Professional Judgment

3. INSPECTION & EVALUATION

Prioritizing

DO THE RIGHT THING

- Building Life-Cycle Management
- Building Information Management
- Building Performance Analysis
- Prioritize
- Plan
- Execute
- Compare

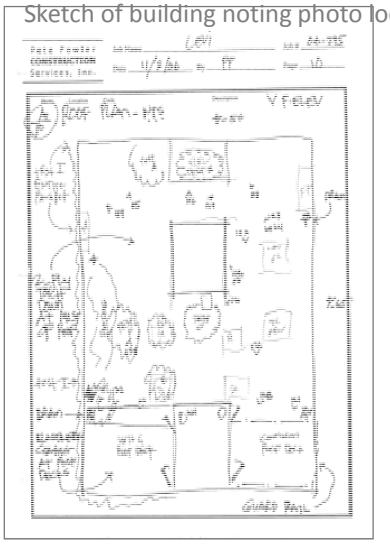


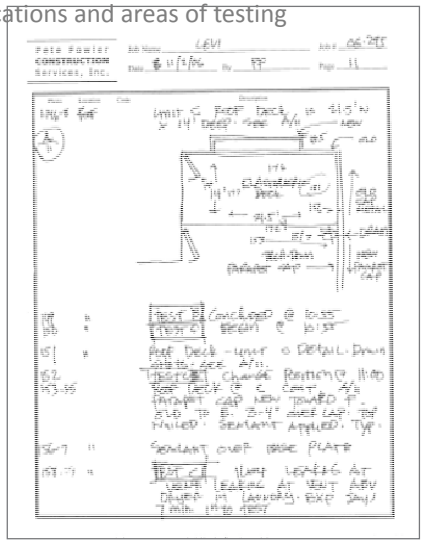
Case Studies

3. Small Commercial Project (PFCS 15-121)
   - A. Proposal
   - B. Document Summary
   - C. Property Condition Assessment (Report)
4. Medium Multi-family Project (PFCS 14-320)
   - A. Inspection Summary ready for litigation
   - B. Testing plan
5. Medium Commercial Project (PFCS 15-161)
   - A. Investigation Report and Map
   - B. Report with Maps

Case Study

Sketch of building noting photo locations and areas of testing

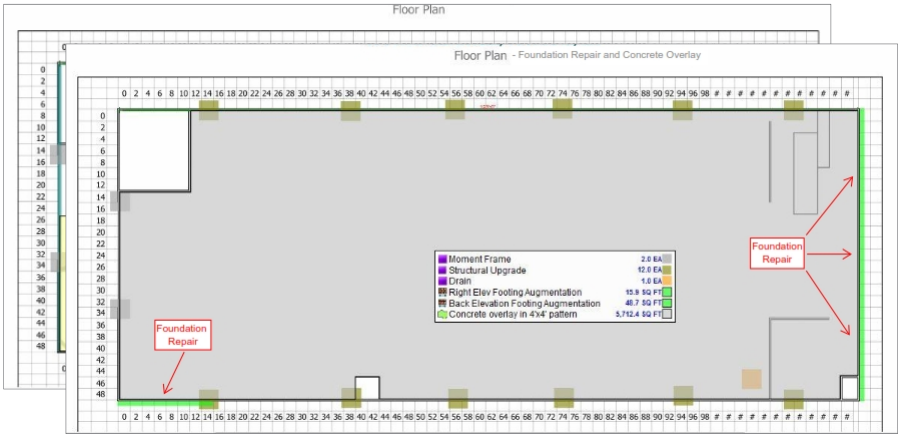




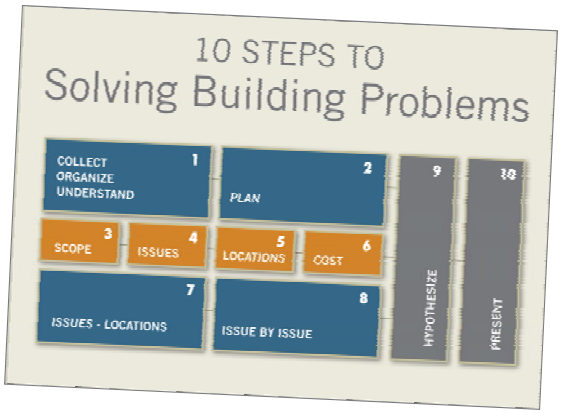
3. INSPECTION & EVALUATION

Case Study

CASE STUDY: COMMERCIAL



4. ANALYSIS & ESTIMATE



Contents

Analyzing Construction Defects

- PFCS Analysis Process
- Strategy: SOLVE THE PROBLEM
  - Test, Specify, Estimate, Tender, Manage, Verify (QC)
- RFP's to co-experts
- Issues Update
- Issues Discussion
- Plan Review
- "Second 10 Things"

What is a Defect?

Construction:

1. (*Noun*) To make or form by combining or arranging parts or elements.
2. To draw (a geometrical figure) with suitable instruments and under specified conditions.
3. To set in logical order.

Defect:

1. (*Noun*) An imperfection that impairs worth or utility: shortcoming <the grave defects in our foreign policy>.
2. An imperfection (as a vacancy or an unlike atom) in a crystal lattice.
3. [Latin defectus]: A lack of something necessary for completeness, adequacy, or perfection: deficiency <a hearing defect>.

Construction Defect: ??

4. ANALYSIS & ESTIMATE

What is a Defect?

PFCS' DEFINITION

- The failure of a building assembly to be constructed in a reasonably workmanlike manner **AND** a failure to perform in a manner that should be reasonably expected by the buyer, owner or user.
- A condition which makes the property unsuitable for its intended use, or causes damage such that the expected service life is shortened unreasonably or an unreasonable maintenance burden is caused.

Read about industry impacts on our blog at **www.petefowler.com**

What Should Be Fixed!?

Specialty Consultants

- Types of Specialty Consultants
  - Architect, Engineer (Structural, Civil, Geotechnical, etc.), MEP, Accounting, Property Appraisal
- Recommend thinking about the work required from the specialty consultant and preparing a Request for Proposal (RFP) and interviews to select the best consultant for the conditions encountered at the project.

4. ANALYSIS & ESTIMATE

Logical and Critical Thinking

FROM ASKING THE RIGHT QUESTIONS BY BROWNE & KEELEY:

1. What are the issues and conclusion?
2. What are the reasons?
3. What words or phrases are ambiguous?
4. What are the value conflicts and assumptions?
5. What are the descriptive assumptions?
6. Are there any fallacies in the reasoning?
7. How good is the evidence?
8. Are there rival causes?
9. Are the statistics deceptive?
10. What significant information is omitted?
11. What reasonable conclusions are possible?

4. ANALYSIS & ESTIMATE

IIACC Method

Issue: Describe the issue in English, so everyone who needs to use the information to make a decision can understand. What and where.

Investigation: What have we done to figure out how the assembly is performing? Inspection. Interviews. Document Review. Testing. Maps/Diagrams. Reports.

Analysis: What should be considered? Codes. Standards. Design intent. Maintenance Manual. Performance. Aesthetics.

Conclusion: What do we *think*? Should we consider politics?

Costs: What do all of the parties think it is going to cost to fix?

Plans, Specifications, Codes & Standards

Plans: Make references to plan sheets and details.

Specifications: Make references to variations from requirements in the specifications. Copy the pages into the file organized by issue or by party.

Codes: Refer to code requirements

Standards: Make references by issue or party.

Estimating Basics

IDENTIFY OR ESTIMATE ALL COSTS

- Remember the 100% Rule
- Costs are always an issue in solving building problems. But, it is my experience that cost is often not the primary issue, even if it appears to be.
- To figure out project costs, we need to identify the steps between “where we are” and “where we want to be” and estimate the cost of the steps; it is not as hard as most people make it out to be. This is the heart of solving building problems. Like the Issues List, we can usually identify 5 to 15 steps that will move the situation to conclusion.

Estimating Basics

5 LEVELS – 10 STEPS

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Level 5 Estimating

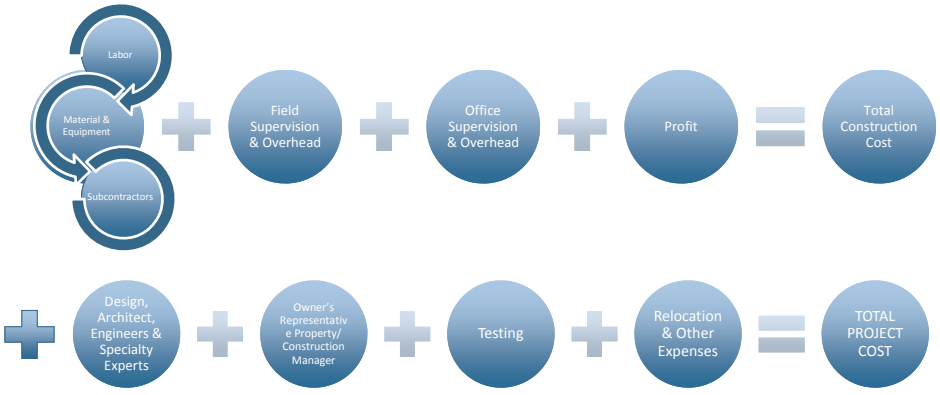
5 Levels - 10 Steps

3/10/2009

Line	Steps	Level 1 Order of Magnitude	Level 2 Conceptual	Level 3 Preliminary	Level 4 Detailed	Level 5 Bid / Construction / Trial
1	Format	Summary Sheet Only	Add capital letters (or numbers if L1 are letters) with 2 to 15 items under each of the main categories	Conform with the WBS rules: Main Category, then capital letters or numbers, then alternate with each new level.	See PFCS Samples for deeper and deeper levels. Conform to rules of WBS.	Final Pass for clarity and ease of making references and following all of the component parts.
2	Scope	A Level 1 Work Breakdown Structure (WBS): 1 paragraph to 1 page. There are only basic quantities (no real QTO) in approximate figures	Add details with 2-10 categories each with letters and CSI codes. Basic QTO on main items (SF, FA, LF, etc.) Usually not calculated units like Cubic Yards (CY)	Level 3 WBS with letters, numbers, and CSI codes. More detailed QTO.	Complete, detailed QTO.	Final Pass. Check QTO on key items.
3	Time/Labor	Little or no breakdown of labor / time in this step	Rough Estimate, Typical crews, Round numbers, slightly over estimating, No calls	Productivity rates, Use Walker's book on big #'s	Use Walker's Labor Rates	Final Pass
4	Material	A guesstimate. Little QTO, Quantities only - not cost of materials. Assembly level estimates at the most	QTO, Rough Estimate, Slightly over estimating. Books only for big #.'s, NO calls unless faster than book	Calls, Books, Maybe Alternatives	Calls, Bids, Alternatives refined	Final Pass
5	Equipment	WAG. Often none	Rough Estimate. No Calls	Calls, Books	Calls, Books, Bids	Final Pass
6	Subs	Unit prices, WAG, Use books only on BIG #'s	Books, NO calls	Some Calls	Lots of Calls, Maybe send info, Maybe Bids	Final Pass
7	GC's	% of Direct Cost	Reconsider % or Amount	Reconsider % or Amount	Broken Down	Same as L4
8	OH	% of Direct Cost	Reconsider % or Amount	Reconsider % or Amount	Possibly Broken Down	Same as L4
9	Profit	% of Direct Cost	Reconsider % or Amount	Reconsider % or Amount	Reconsider % or Amount	Reconsider % or Amount
10	Non-Construction	WAG	SWAG	More Support	More Support	Calls Bids
11	Time:	1-4 Hours	2-24 Hours	16-100 Hours	50-200 Hours	100+ Hours

Level 2+ Estimating

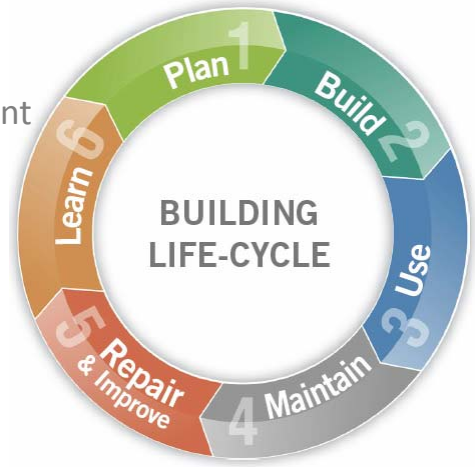
CONSTRUCTION COST FLOW CHART



4. ANALYSIS & ESTIMATE

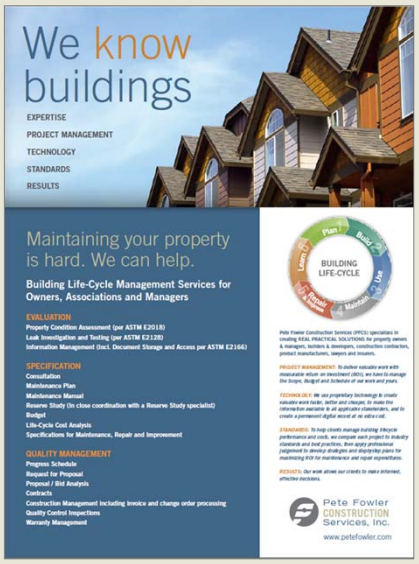
BLM Defined

PFCS Definition of Building Lifecycle Management: Actions taken with the intent of making intelligent, proactive decisions about building design, construction, use, maintenance, repair, and improvement, all while considering the entire service-life of the property.



3. INSPECTION & EVALUATION

Building Lifecycle Management



4. ANALYSIS & ESTIMATE

Lifecycle Cost Analysis

4. ANALYSIS & ESTIMATE

Why Lawyers Should Care

	Total Cost of Ownership		
Issues	With Defects	Without Defects	Difference
1. Substructure	$	$	$
2. Superstructure	$	$	$
3. Interiors	$	$	$
4. Services	$	$	$
5. Equipment & Furnishings	$	$	$
6. Special Construction & Demo	$	$	$
7. Site Work	$	$	$
Total	$	$	$

Case Studies

6. Medium Residential Project (PFCS A2-124)
   - A. Defect List
   - B. Estimate
   - C. Report
7. Medium Multi-family Project (PFCS 12-281)
   - A. Report (Not CD)
   - B. RFP to Contractors

5. TESTING

Contents

Building Leakage Evaluation

Pete Fowler CONSTRUCTION Services, Inc.

March 27, 2014

www.petefowler.com

CA 949.240.9971 CO 303.554.0381 OR 503.246.3744

ASTM E2128-01A SECTIONS

ASTM E21218-01a Sections

- Scope
- Referenced Documents
- Terminology
- Significance and Use
- Systematic Approach to an Evaluation: Overview
  - Review of Project Documents
  - Evaluation of Design Concept
  - Determination of Service History
  - Inspection
  - Investigative Testing
  - Analysis
  - Report Preparation
- Annex A1: Mandatory Information
- Appendixes (X1 through X8)

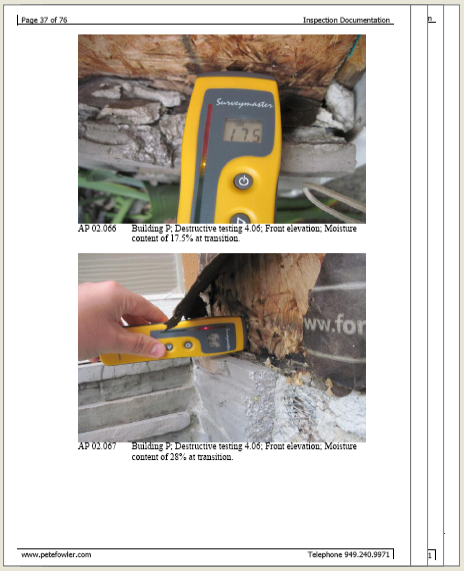
5. TESTING

ROI

5. TESTING

3. SAMPLE DOCUMENTS

Investigation Documentation



Page 37 of 76 Inspection Documentation

AP 02.066 Building P; Destructive testing 4.06; Front elevation; Moisture content of 17.5% at transition.

AP 02.067 Building P; Destructive testing 4.06; Front elevation; Moisture content of 28% at transition.

www.petefowler.com Telephone 949.240.9971

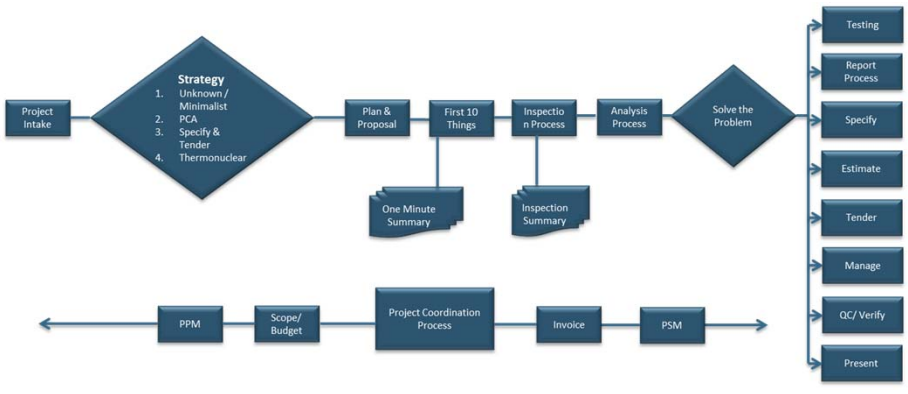
Case Studies

1. Small Multi-family Project (PFCS 06-295)
   A. Inspection Notes and Photos
4. Medium Multi-family Project (PFCS 14-320)
   A. Inspection Summary ready for litigation
   B. Testing Plan

6. REPORTS AND POSSIBLE FURTHER WORK

Contents

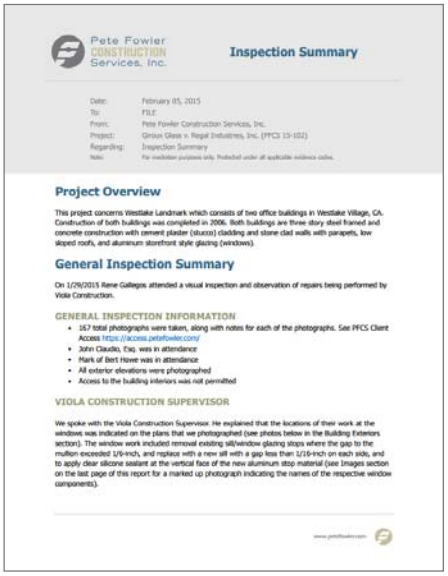
Strategy



PFCS Communicating In Writing

A. Communicating in Writing © 2005
B. Writing is work
C. Summarize from A to Z
D. Lots of Passes
E. Prepare. Draft. Polish.
F. Awesome Work: PFCS Service Guarantee. Item 5 of 6. We always communicate in plain English so our clients can use the information to make informed decisions.

Inspection Summary



Pete Fowler CONSTRUCTION Services, Inc.

Inspection Summary

Date: February 05, 2015
To: FILE
From: Pete Fowler Construction Services, Inc.
Project: Giroux Glass v. Regal Industries, Inc. (PFCS 15-102)
Regarding: Inspection Summary
Note: For mediation purposes only. Protected under all applicable evidence codes.

Project Overview

This project concerns Westlake Landmark which consists of two office buildings in Westlake Village, CA. Construction of both buildings was completed in 2006. Both buildings are three story steel framed and concrete construction with cement plaster (stucco) cladding and stone clad walls with parapets, low sloped roofs, and aluminum storefront style glazing (windows).

General Inspection Summary

On 1/29/2015 Rene Gallegos attended a visual inspection and observation of repairs being performed by Viola Construction.

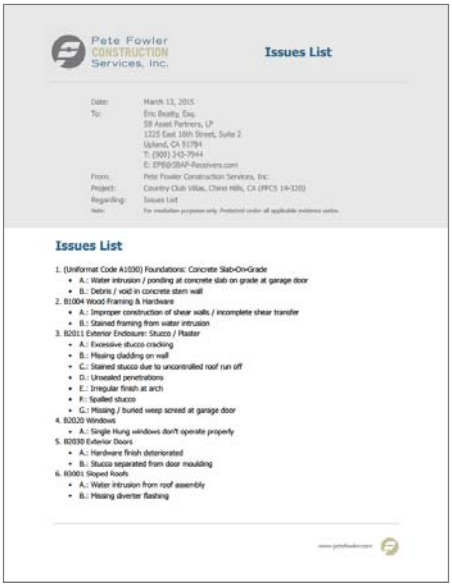
GENERAL INSPECTION INFORMATION

- 167 total photographs were taken, along with notes for each of the photographs. See PFCS Client Access https://access.petefowler.com/
- John Claudio, Esq. was in attendance
- Mark of Bert Howe was in attendance
- All exterior elevations were photographed
- Access to the building interiors was not permitted

VIOLA CONSTRUCTION SUPERVISOR

We spoke with the Viola Construction Supervisor. He explained that the locations of their work at the windows was indicated on the plans that we photographed (see photos below in the Building Exteriors section). The window work included removal existing sill/window glazing stops where the gap to the mullion exceeded 1/8-inch, and replace with a new sill with a gap less than 1/16-inch on each side, and to apply clear silicone sealant at the vertical face of the new aluminum stop material (see Images section on the last page of this report for a marked up photograph indicating the names of the respective window components).

Issues List



Pete Fowler CONSTRUCTION Services, Inc.

Issues List

Date: March 13, 2015
To: Eric Beatty, Esq.
SB Asset Partners, LP
1225 East 16th Street, Suite 2
Upland, CA 91784
T: (909) 242-7944
E: EPSB@BAP-Receivers.com
From: Pete Fowler Construction Services, Inc.
Project: Country Club Villas, Chino Hills, CA (PFCS 14-320)
Regarding: Issues List

Issues List

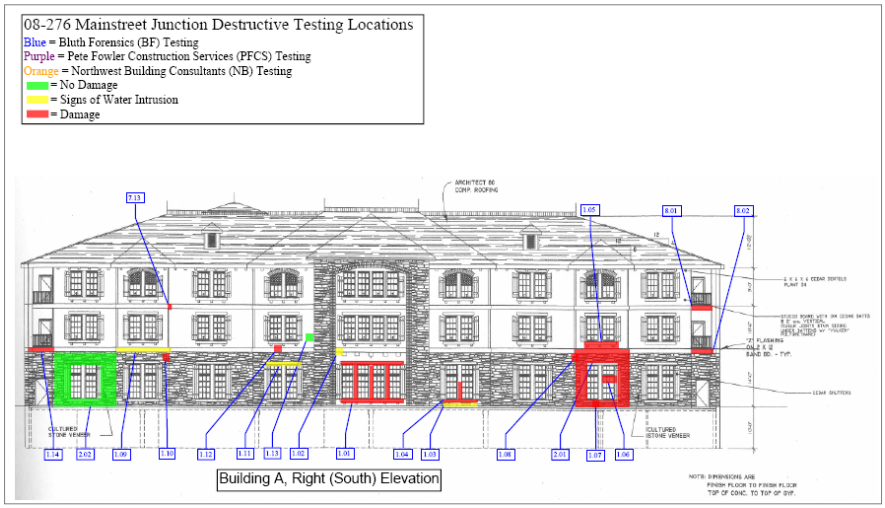
1. (Uniformat Code A1030) Foundations: Concrete Slab-On-Grade
   - A.: Water intrusion / ponding at concrete slab on grade at garage door
   - B.: Debris / void in concrete stem wall
2. B1004 Wood Framing & Hardware
   - A.: Improper construction of shear walls / incomplete shear transfer
   - B.: Stained framing from water intrusion
3. B2011 Exterior Enclosure: Stucco / Plaster
   - A.: Excessive stucco cracking
   - B.: Missing cladding on wall
   - C.: Stained stucco due to uncontrolled roof run off
   - D.: Unsealed penetrations
   - E.: Irregular finish at arch
   - F.: Spalled stucco
   - G.: Missing / buried weep screed at garage door
4. B2020 Windows
   - A.: Single Hung windows don't operate properly
5. B2030 Exterior Doors
   - A.: Hardware finish deteriorated
   - B.: Stucco separated from door moulding
6. B3001 Sloped Roofs
   - A.: Water intrusion from roof assembly
   - B.: Missing diverter flashing

Testing Summary

#	PFCS Test No.	Corresponding Test No.[1]	Wbs[2,3]	Building	Elevation	Photo Ref	Orientation	Date	Testing Location	Damage	SWI	Observation
1	1											Failed sealant adhesion, unprimed trim, deteriorated wood trim, rusted fasteners, window fasteners over SAM, omitted vertical leg on flashing, deteriorated GWB sheathing, microbial growth on GWB and OSB sheathing, inconsistent GWB gaps and overdriven fasteners, corroded GWB staples, SAM applied over window sill flanges.
2	1										X	Warped window frames, 1/8" to 1/4".
3	1										X	Grouted joint between stone and wood block and omission of dynamic sealant joint, corroded metal lath, microbial growth on GWB and OSB sheathing
4	1											Omission of keyed scratch coat, lath not fully embedded in mortar, improper WRB Termination at grade, deteriorated WRB
5	1											SAM applied over sill flange, improper window fastening (too close to corner and too far apart), warped and cracked wood trim, one layer of WRB under stone, stained GWB sheathing, rusted and overdriven fasteners
14												Metal head flashing lapped over WRB, deteriorated WRB, fungal growth on trim cuts, microbial growth on GWB and rusted fasteners
15												
16												
17												
18												Significant moisture staining at GWB.

6. REPORTS & POSSIBLE FURTHER WORK

Testing Map



6. REPORTS & POSSIBLE FURTHER WORK

Testing Map

6. REPORTS & POSSIBLE FURTHER WORK

Opinion Letter

Pete Fowler CONSTRUCTION Services, Inc.

Opinion Letter

Date: 04/04/2007
To: James Jones, Esq.
Jones & Lester
300 East Esplanade Drive
Suite #1200
Oxnard, CA 93036
T: 805-604-2655
E: jjones@joneslestar.com
From: Pete Fowler Construction Services, Inc.
Project: Levi v Olatt (PFCS 06-295)
Regarding: Opinion Letter
Note: For mediation purposes only. Protected under all applicable evidence codes.

Dear Mr. Jones and Mr. Branch:

Pete Fowler Construction Services, Inc. (PFCS) has analyzed documents and information related to roofing, waterproofing and water damage at 18 North Venice Blvd, Venice, CA. Our findings are summarized in this preliminary report.

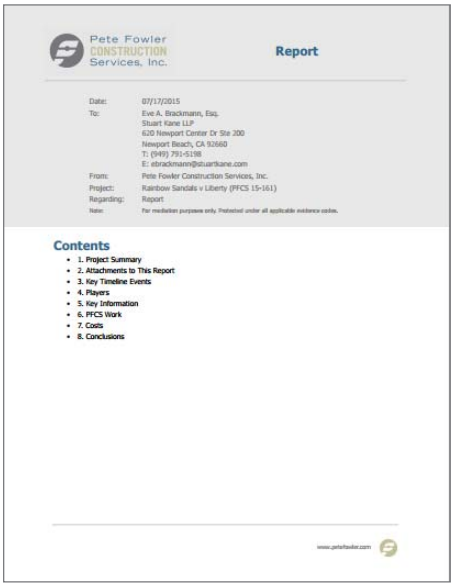
I. Project Summary

The project is a 3-level, 4-unit condominium building near the beach in Venice, CA constructed around 1988-89. The building occupies the entire lot except for minimum set-backs (5 to 10-feet) at all four elevations. Level 1 consists of individual parking garages accessed at the back elevation, storage rooms, a studio and an entry foyer to access the elevator to the second floor (Units A and B or 1 and 2) and the third floor (Units C and D or 3 and 4). The building has a low slope roof, roof-top deck areas, wood siding and stucco exterior building walls, and a slab-on-grade foundation. There are four balcony decks on front and four on the back elevations.

Ms. Levi is the owner of the top right unit (Unit C or 3). She purchased the building before completion and sold three of the units as condominiums. Low-slope roof replacement work and replacement of the roof-top deck areas was performed by an unlicensed roofer hired by the HOA during the winter of 2004-05. Ms. Levi reported dramatic leakage into her unit. There was additional leakage into the neighboring unit and the garage during the winter of 2005. This was due in part to the removal of the old roof and lack of protection during the rains. Although some repairs have been made the roof continues to leak into Units C and D (3 and 4). The owner is suing the HOA due to the leaks. There is interior damage and Ms. Levi has received estimates in the range of approximately $100,000 for the interior repairs.

6. REPORTS & POSSIBLE FURTHER WORK

Report



Pete Fowler CONSTRUCTION Services, Inc.

Report

Date: 07/17/2015
To: Eve A. Brackmann, Esq.
Stuart Kane LLP
620 Newport Center Dr Ste 200
Newport Beach, CA 92660
T: (949) 791-5198
E: ebrackmann@stuartkane.com
From: Pete Fowler Construction Services, Inc.
Project: Rainbow Sandals v Liberty (PFCS 15-161)
Regarding: Report
Note: For mediation purposes only. Protected under all applicable evidence codes.

Contents

Specifications

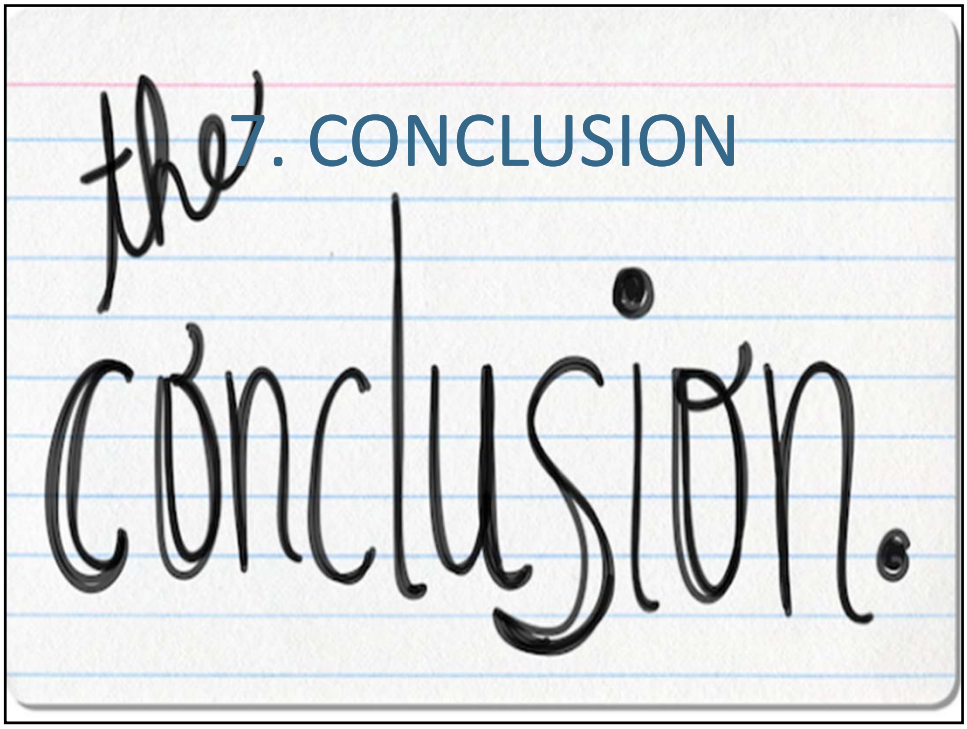
1. General	SIMPLY (REALLY, PLAIN ENGLISH) DESCRIBE THE WORK HERE: WHAT: WHERE (Locations): HOW MANY:
2. Materials	DESCRIBE THE MATERIALS IF WE ARE BEING SPECIFIC. IF NOT, THEN DESCRIBE WHAT WE WANT. GENERALLY A NATIONAL MANUFACTURER WITH EXCELLENT INSTALLATION INSTRUCTIONS. LOCAL TECHNICAL SUPPORT IS GREAT. BUT REALLY GOOD TECHNIAL SUPPORT THAT IS NOT LOCAL, IS SOMETIMES BETTER THAN LOCAL SUPPIORT THAT IS NOT. EXAMPLE FOR AN ELECTRICAL SCOPE: A. Materials shall be of top quality and the invoices for materials shall be collected, maintained, and made available upon request by the Owner's Representative. B. Materials and components will be listed and labeled when and where required by the applicable code and municipality. C. All manufacturers' instructions, documentation, warranty, and maintenance information shall be delivered to the Owner's Representative at the time of payment application.
3. Execution	LIST THE SCOPE OF WORK HERE IN A LETTERED LIST. IF YOU GET TO Z, IT'S TOO MUCH DETAIL.
4. Quality Assurance	DESCRIBE HOW WE ARE MANAGING THE QUALITY. ARE THERE HOLD POINT INSPECTIONS? ARE WE RELYING ON THE MUINICIPALITY?

6. REPORTS & POSSIBLE FURTHER WORK

Other Possible Work

A. Investigation Recommendations
B. RFP to Specialty Experts
C. Inspection Request incl. Unbiased (Random) Selection
D. Allocation
E. Presentation
F. Testimony
G. RFP to Contractors
H. Contract Composition & Negotiation
I. Construction Management
J. Quality Verification incl. Inspection

Read about industry impacts on our blog at **www.petefowler.com**



Conclusion

A. Learning Objectives
B. Program Outline
C. Back-Up Materials
D. Recommendations
E. Webinar Materials
F. CE Certificates
G. Feedback
H. Program Outline

1. INTRODUCTION

Learning Objectives

- Discuss building performance analysis standards
- Discuss various strategies for approaching construction defect cases from the plaintiff's perspective
- Outline a beginning-to-end process for handling construction defect litigation
- Show real-life case studies applying various approaches to construction defect litigation matters
- Show examples of good work

7. CONCLUSION

Back-Up Materials

1. Small Multi-family Project (PFCS 06-295)
2. Small Single Family Project (PFCS 15-165)
3. Small Commercial Project (PFCS 15-121)
4. Medium Multi-family Project (PFCS 14-320)
5. Medium Commercial Project (PFCS 15-161)
6. Medium Residential Project (PFCS A2-124)
7. Medium Multi-family Project (PFCS 12-281)
8. Large Residential Project (PFCS 14-301)

7. CONCLUSION

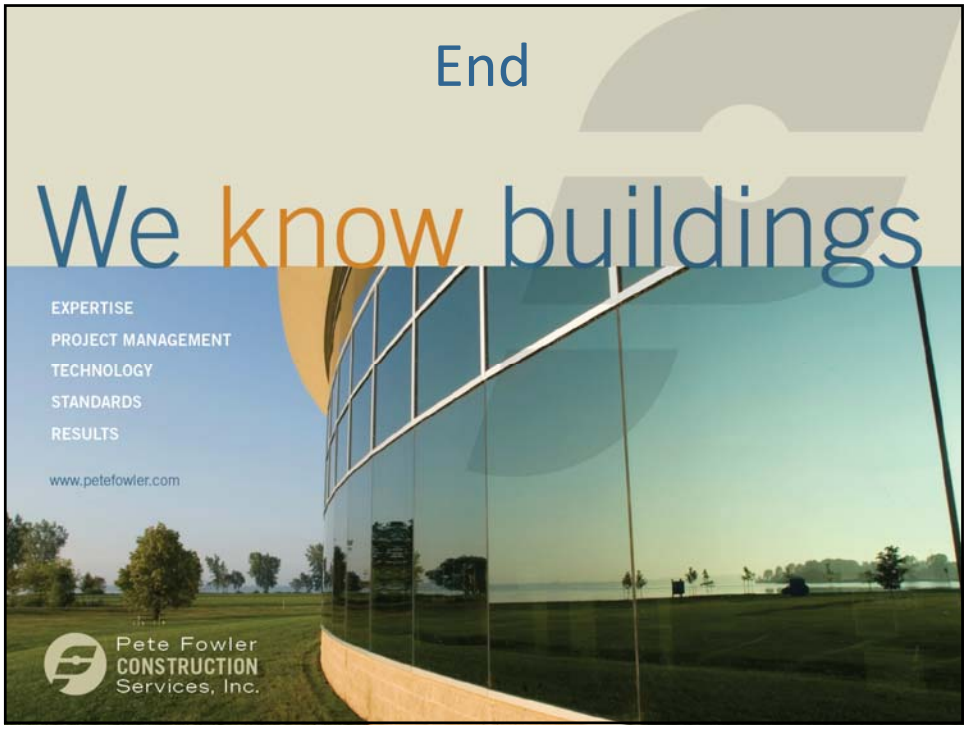
Recommendations

1. Read through the program materials
2. Read the back-up materials
3. Apply the applicable industry standards to doing your work and/or hold your experts accountable to do so.
4. Be as systematic as possible.

7. CONCLUSION

Program Outline

1. Introduction
2. In the Beginning
3. Inspection & Evaluation
4. Analysis & Estimate
5. Testing
6. Reports and Possible Further Work
7. Conclusion


End
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