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Construction Law: An attorney discusses capital improvements - by C. Jaye Berger

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This is the time of year for capital improvement projects, such as facade, cornice and roof repairs. They can occur at any time, but it is also a time period in the cycle of Local Law 11 work when lots of renovation work is being done on façades and roof tops to comply with legal requirements. A lot of people on both sides of the equation consult with me about the contracts for this type of work and what to watch out for.

Many people do not consider or take into account that in order to perform this type of work, they may need “access” to a neighboring building in order to transport materials to the roof via that building. If this is not thought through in advance, the work may be delayed while access and an access agreement are negotiated. The party performing the work may need to put up some scaffolding and protection on your building’s roof before any work can be performed.

The length of time it will take to perform work must also be considered. You do not want to have a project that lingers forever, even if you are in a building receiving payments for the right of access. Even if it is a routine renovation project, you will want financial incentives for the work to be completed in a timely fashion. Merely saying it will be completed within a stated number of days is not enough.

It is very likely with such work that hidden conditions will show up and additional work will be needed. A common mistake people make is to include the cost of the additional work in a change order, but not mention the additional time that will be needed to extend the contract time for completion.

These are just a few of the many things I discuss with clients on either side of these projects.

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