



## **Avoiding stop work orders in New York City**

August 18, 2008 - Front Section

When owners have a dispute with an architect about fees, many are under the mistaken belief that they can fire the architect, pay them to the date of termination and simply proceed with the project. That is short-sighted and incorrect thinking. When consulted, I have to advise them that architects generally own their plans, unless they have agreed otherwise in their contract. Thus, even if a building owner fires an architect or an architect terminates due to non-payment and the owner later winds up paying him, it still leaves open the issue of whether the owner can proceed with the project using the architect's drawings.

The notion of having an architect self-certify the work adds an extra level of importance to sorting out the architect's role on the project. If the project architect who is certifying the work is fired, the owner cannot just proceed with the work as though nothing happened. Things are more complicated now than they have been in the past, because the city of New York has tightened up what can happen in this type of situation. Once the city is notified in writing that the architect of record is no longer working on the project, the city can issue a stop work order until there is a new architect of record. This assures that an appropriate professional is monitoring the work.

A property owner or developer may then think "Okay. I will get a new architect of record and then I can just keep working on the project." However, the issue of ownership of drawings still needs to be dealt with. Some architects may be happy to just be paid what they are owed at that point and be willing to walk away, but others may want the owner to pay them something more for those designs that they worked so hard on, which are being built with the involvement of another architect.

Owners and architects are well-advised to seek legal counsel knowledgeable in this area before contracts are signed and during a project before the architect leaves the project.

C. Jaye Berger, Esq., is an attorney at the Law Offices C. Jaye Berger, Manhattan, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540