

Case Study: Convention Center Hotel Complex

Expert analysis and opinions related to construction defects and contractor's failure to cure



Dispute

A developer contracted with a general contractor to construct a 600+ room convention center hotel complex (hotel) in a coastal area of the United States. The hotel construction reached substantial completion and opened as planned. However, about three years later the developer discovered numerous construction defects in the exterior walls of the hotel, resulting in extensive water intrusion problems.

The developer notified the general contractor of its defective work, and the general contractor proposed a remedy that would temporarily mask the problem instead of resolving it, which the developer rejected as it considered the proposed repairs inadequate. After the general contractor refused to provide an adequate solution, the developer retained a replacement contractor to perform the proper repairs. While performing the repairs, the replacement contractor identified further defective work by the general contractor, which the developer paid to repair. The developer filed suit against the general contractor to recover damages.

Contract

\$130 MM+ Construction Contract

Project

Convention Center Hotel Complex

Primary Issues

Construction Defects

Subcontractor Supervision and Inspection

Failure to Cure



Approach

Counsel for the developer retained GlassRatner to (1) assess both the general contractor's workmanship and the developer's actions relative to contractual requirements and industry standards, and (2) quantify the developer's damages and costs to remedy the defects.

Assessing the contractor's workmanship included analyzing the findings of a specialized consultant's water intrusion study report, reviewing the findings of the replacement contractor, and investigating the project records, drawings, and contractual specifications. GlassRatner concluded that the water intrusion was indeed caused by multiple failures by the general contractor. Various subcontractor installations failed to meet the project specifications, and the general contractor failed to properly supervise this work or identify the issues during inspections. Furthermore, GlassRatner confirmed the developer prudently rejected the general contractor's proposed remediations, which were superficial in nature, not technically sound, and unreasonable. As such, GlassRatner concluded that the developer should be entitled to recover damages caused by the water intrusion from the general contractor's defective work.

GlassRatner quantified the damages caused by the water intrusion to be in excess of \$3MM. This included the direct cost of the replacement contractor repair work; the repurchasing of carpets, draperies, and other materials damaged by the water intrusion; and lost rental income, as certain rooms could not be rented while repairs were underway.



Outcome



GlassRatner submitted an expert report detailing its opinions, and the developer obtained a favorable settlement while avoiding trial.

