

About the BSA

The Boston Society for Architecture is a community committed to improving the quality of life for everyone through architecture and design.

We are a chapter of the American Institute of Architects (AIA) and a community nonprofit.

Architecture is for everyone.



BSA Virtual Program: AIA contracts during COVID-19: Collaboration & Communication

Tuesday, March 24, 2020

ERIC WHITE HON. AIA

Executive Director
Boston Society for Architecture



Webinar Guidelines and Etiquette

SOUND

- All participants will be on mute mode. Click on Microphone icon on the lower left side of your screen to ensure this is muted

Q+A

- Q&A: Thank you for all your questions during registration! Feel free to use the Chat option on the lower middle right side of your screen to pose new questions and interact with other participants.
- However, due to the overwhelming response and questions, we have selected a few key questions at this time. We will use your questions for more sessions!

RECORDING

BSA will be recording this webinar for on-demand, and will share this with the community

BSA's NEXT SEMINAR

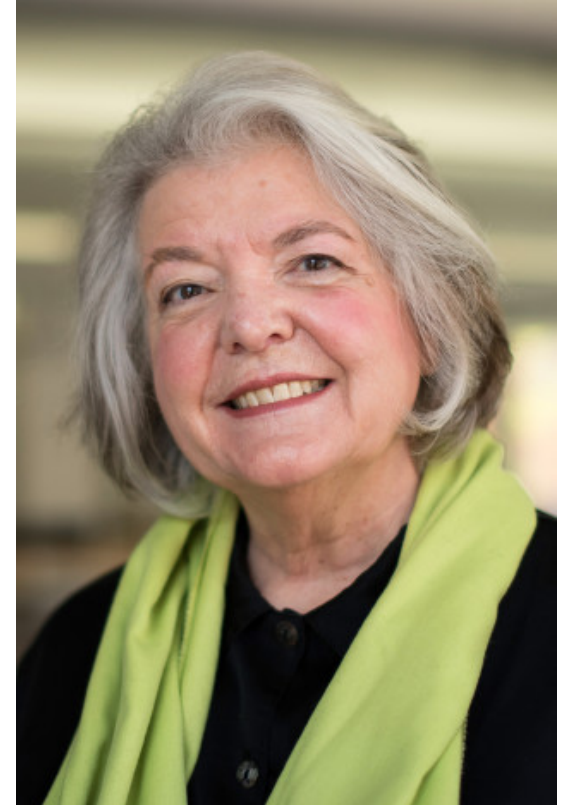
- **Construction administration during COVID-19**
Friday, March 27 | 10:00 AM – 11:00 AM
 - **Sheila Kennedy FAIA** | principal, Kennedy & Violich Architecture
 - **Tina Stanislaski AIA** | principal, HMFH Architects

Presenters



JAY WICKERSHAM FAIA

Partner
Noble, Wickersham & Heart LLP
Design, Construction & Environmental Law



JANE WEINZAPFEL FAIA

Principal
Leers Weinzapfel Associates

AIA contracts during COVID-19: Collaboration & Communication

Presenters: Jay Wickersham FAIA, Esq. Partner, Noble, Wickersham & Heart LLP
Jane Weinzapfel, Principal, Leers Weinzapfel Associates

Tuesday, March 24, 2020 | 12:00 – 12:45 PM



Overview of presentation

1. Governor Baker's shut-down order of March 23, and the prior construction shut-down orders in Boston and Cambridge.
2. What to do if construction has stopped or slowed
3. What to do if the design process has stopped or slowed
4. What to do if the project is continuing, but you won't be able to meet a deadline

1. Governor Baker's shut-down order of March 23, and the prior construction shut-down orders in Boston and Cambridge.

Under Governor Baker's order, issued Monday March 23, and effective March 24 through April 7:

- All non-essential businesses must close their physical workplaces as of noon today. Businesses are encouraged to continue operations remotely.
- Construction projects may continue because construction is considered an essential business.

1. Governor Baker's shut-down order of March 23, and the prior construction shut-down orders in Boston and Cambridge.

The construction exemption applies to architects in two ways:

- It covers personnel who “support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)”
- It covers professional services “when necessary to assist in compliance with legally mandated activities and critical sector services”
- While the exemption applies to construction sites, it's not clear if it would apply to an architect's office. For health reasons alone, working remotely is still the best practice.

1. Governor Baker's shut-down order of March 23, and the prior construction shut-down orders in Boston and Cambridge.

Construction in [Boston](#) and [Cambridge](#) remain subject to the prior shut-down orders issued by those cities, on March 16 and 18, respectively. Only limited categories of projects are exempted in Boston and Cambridge, including:

- Health-related facilities
- Work to make a building safe or habitable.
- 1-3 family housing projects (Cambridge only)

2. What to do if construction has stopped or slowed

Did the Owner issue a notice of suspension, or did it come from the Contractor (for example, because of the Boston construction shut-down)?

- Whatever the reason, respond in writing to all parties, to confirm your understanding of the project status.
- This applies to verbal notices, as well as those in writing.
- If no-one else has given notice, but you see signs of a construction delay – you need to inform all parties.

2. What to do if construction has stopped or slowed

Confer with the Owner and Contractor, to define next steps:

- If the project will partially continue, what is the scope of continuing work, versus the work that has been suspended?
- If the project will totally stop, are there actions that need to continue – finishing up submittal reviews and responding to RFIs, reviewing Change Order requests, certifying the contractor's final requisition?

2. What to do if construction has stopped or slowed

Review your contract:

- Are you entitled to demobilization or termination costs? (This may depend on the length of the suspension). If so, include those costs in your final invoice.
- What adjustments will need to be made to contract terms going forward: schedule, scope of services, compensation?

Communicate with your clients. Let them know that your goal is to keep working in the best interests of their projects.

3. What to do if the design process has stopped or slowed

Did the Owner issue a notice of suspension or slow-down?

- Whatever the reason, respond in writing to all parties, to confirm your understanding of the project status.
- This applies to verbal notices, as well as those in writing.

3. What to do if the design process has stopped or slowed

Confer with the Owner and other parties, to define next steps:

- If the project will partially continue, what is the scope of continuing design services, versus elements of the design that has been suspended?
- If the project will totally stop, are there actions that need to continue – finishing up a report or a set of deliverables, organizing files?

3. What to do if the design process has stopped or slowed

Review your contract:

- Are you entitled to demobilization or termination costs? (This may depend on the length of the suspension). If so, include those costs in your final invoice.
- What adjustments will need to be made to contract terms going forward: schedule, scope of services, compensation?

Communicate with your clients. Let them know that your goal is to keep working in the best interests of their projects.

4. What to do if the project is continuing, but you are worried that you won't be able to meet a deadline

Notify the client promptly. Explain the reason for the potential delay, and what you are doing to catch up:

- Challenges to your staff in working remotely?
- Challenges to your consultants to perform?
- Challenges in coordinating all design team materials?

Communicate with your clients. Let them know that your goal is to keep working in the best interests of their projects.

4. What to do if the project is continuing, but you are worried that you won't be able to meet a deadline

Review your contract:

- Most architect's contracts excuse a delay, if it's due to factors outside of the architect's control.
- But many contracts require you to notify the client promptly, as a condition of receiving compensation for the delay costs.
- Even if your contract is silent on notices, it's always good policy.

Communicate with your clients. Let them know that your goal is to keep working in the best interests of their projects.

Questions and answers

Thank you!

Your feedback is important. Write communications@architects.org.

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