Coronavirus (COVID-19) – Impacts to Projects

We are one-week into Pennsylvania Governor Wolf’s Order shutting down most residential and non-residential construction projects. Some Construction Industry trade groups are requesting the Governor to re-evaluate the Order for construction projects – at least those projects that can proceed safely in accordance with the CDC and/or OSHA requirements. As those current efforts are underway, others in the industry are worrying about the financial impacts to their businesses and planning for the days after the shutdown ends. For projects that have been shut down, one thing is clear – all project participants are going to feel some negative economic impact. These negative economic impacts can be exacerbated by time and dollars devoted to legal claims.

At this time, Architects should be proactively preparing for the resumption of their projects. What does this mean? In short, this means planning and collaborating – which are natural for Architects.

The standard AIA construction contracts generally provide that the Architect is the Initial Decision Maker for claims. The role of Initial Decision Maker is a role of neutrality. The Architect should be planning for making decisions on claims resulting from the work stoppage. Therefore, Architects should be reviewing the Project Contracts to be prepared to timely respond to claims based on the Project Contracts and equitable considerations. The Architect should be brushing up on its own contractual obligations in this regard.

Architects should consider starting a collaborative discussion with the major project participants. The collaborative effort can focus on efficient resumption of projects once the shutdown ends; and, how to address the shutdown’s impact to the construction schedule while minimizing the negative financial impacts to the project and its participants.

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