The Legal Corner

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We have previously discussed the statutes of limitations and repose as a statutory legal defense in Minnesota. This month's "legal corner" is focused on two other common-law[1] legal defenses relevant to the construction industry: (1) the Spearin Doctrine and (2) the Doctrine of Economic Waste.

The Spearin Doctrine

The Spearin Doctrine can be a powerful defense for a contractor in a construction defect case. The doctrine gets its name from a 1918 United States Supreme Court case[2], which held that a contractor is not liable to an owner for loss or damage that results only because of defects in the design provided to the contractor (plans, specifications, etc.).

The Spearin Doctrine means that the owner impliedly warrants that the plans and specifications, if followed by the contractor, will result in a functioning system. Basically, if a contractor is required to build according to plans and specifications created by the owner (or the owner's designer), then the contractor will not be responsible for the consequences of defects in the plan.

Put differently, if the contractor builds it the way he was told to, then he is not liable for the defects if it does not work. The defense is not fool-proof, however, because it does require a factual showing that the work was actually completed according to plan, which is typically a battle.

The Doctrine of Economic Waste

The Doctrine of Economic Waste was best articulated in a 1921 New York case[3]; and is now universally accepted. The Doctrine of Economic Waste is typically not a complete defense; but rather a limitation on the amount/type of damages that a plaintiff can recover.

Generally, the measure of damages in a construction defect case is the cost of completing or repairing the defective work. However, when the cost of repair is disproportionate to the benefits to be gained by the repair, then damages are measured by the diminution in value caused by the defect. Diminution in value is measured by the difference in value of the work "as contracted for" and the work "as actually built."

Put another way, a plaintiff is entitled to recover the lesser of (1) the cost to repair the defect, or (2) the diminution in value caused by the defect.

For example, if your contract requires that all plumbing pipe installed in the house be manufactured by X Corp. and the plumber installs Y Corp. brand pipe, then the plaintiff cannot recover the cost to demolish all of the walls, replace the pipe, and rebuild. Rather, the plaintiff will be entitled to the difference in value of the house with X Corp. pipe versus the value of the house with Y Corp. pipe.

BONUS – Quiz Question w/Prizes

The first 5 answers (call or email us) get a $10 gift card to Dunn Bros. Coffee.

Minnesota's new automatic sprinkler requirement applies to single family dwellings with floor areas over 4,500 SF. What areas are included within that SF calculation? (Tip: See April 2015 "Legal Corner")

If you have a construction law related question, please email it to csbronczyk@arthurchapman.com, or call (612) 375-5972. Every question will be addressed, whether or not it is included in an article.

This column is intended as a report of legal developments in the construction industry. It is not intended as legal advice. Readers of this column are encouraged to contact Arthur, Chapman, Kettering, Smetak & Pikala, P.A. with any questions or comments.

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[1] Common-law means law derived from court decisions rather than statutes or constitutions.

[2] United States v. Spearin, 248 U.S. 132 (1918)

[3] Jacob & Youngs v. Kent, 230 N.Y. 239 (1921)