

Expert Report of MG2 Architects' Performance at Olive 8 Project

I was retained by Ater Wynne, representing Olive 8 LLC and Hedreen Hotel Two LLC ("Hedreen"), in connection with the Olive 8 Hotel & Condominium Project ("Project") in Seattle. Brenda Molner with Ater Wynne requested I examine the Project's construction documentation to provide an opinion on whether the professional services provided by Mulvaney G2 Architect (MG2) met the Standard of Care. Although initially skeptical that MG2's services would fall below the Architect's Standard of Care, I reviewed the Project documents, including Construction Documents (CDs), Specifications, applicable Contracts and Agreements, Meeting Minutes, Architect Field Reports, Architectural Supplemental Instructions (ASI), Requests for Information (RFI), and Change Order Requests (COR). In addition, I reviewed documents relating to ADA (Americans with Disabilities Act) Accessibility Guidelines, FHA (Fair Housing Act) Requirements, Gluckman Mayner Architects (GMA), AGS (Advanced Glazing Systems), Pro-Bel, as well as applicable Project correspondence, notes and reports. However, after reviewing the project documentation described above, I found MG2's performance to fall below the Architects' Standard of Care in several important areas described in this Report.

Although retained by Hedreen as far back as September 2003, it wasn't until October 30, 2006 that MG2 issued the final CDs ('Construction Set'), otherwise known as the GMP (Guaranteed Maximum Price) Set. As the name implies, the GMP Set is intended to include all that information necessary for the Contractor(s) to provide an all-inclusive bid for the Project. Any information omitted from the GMP or Construction Set must be included via the RFI, ASI and/or change order process. Because change orders are more costly to all parties involved, it is essential that the final CD set be as complete and accurate as humanly possible. Unfortunately, that was not the case with MG2's 10/30/06 Construction Set. This Architectural CD set was incomplete, lacked basic and/or important information, and was poorly coordinated with the Interior Design (ID) and engineering disciplines, Structural, Mechanical, Electrical and Plumbing (SMEP). As a result, there were a large number of RFIs (2,363, last one dated 6/25/09), and CORs (740, last one dated 10/16/09).

Indicative of the incomplete and poorly coordinated Construction Set is ASI #4, dated 12/6/06. Just 5 weeks after MG2 completed the Construction set, ASI #4 was issued with 105 line item revisions to the final CD Set, incorporating changes to Architectural, Interior Design, Mechanical, Plumbing and Electrical drawings. This ASI, totaling 205 pages in the electronic file, affected 56 different drawing sheets. The issuance of such a massive ASI so soon after the completion of the Construction Set greatly complicates the construction process, and in my opinion, falls below the Architect's Standard of Care. Ben Doty with Skanska (the firm managed all below-grade construction activities) foresaw the issue of incomplete and poorly coordinated drawings impacting the GMP in his 9/6/06 email (RCH-MG2 132701), when he stated "It is my fear that with the current drawing progress, Skanska will be required to submit GMP pricing to Hedreen without a complete scope of work delineated".

On 10/15/07, nearly 1 year following the issuance of the Construction Set, MG2 issued a Conformance Set of drawings, to compile and incorporate the revisions described in subsequent ASIs (such as ASI #4), identified in the voluminous RFIs, as well as the approved Change Orders

(CORs). 3-1/2 months following the Conformance Set, on 2/4/08, MG2 issued ASI #65, revising existing and/or creating new Architectural and Interior Design drawings, 39 sheets total. The profusion of RFIs and ASIs affecting so many drawings sheets and creating innumerable 8-1/2" x 11" sketches, made it difficult for subcontractors to track the numerous changes, resulting in many field errors and change orders, thereby impacting the cost and schedule of the Project.

Another example of the incomplete Construction Set is COR #273, which omitted the door schedule for the Penthouse level. COR #384 is an example of poor coordination between the Architectural and Interior Design drawings which resulted in the relocation of the elevator indicator lights on all residential floors (L17-L38). Another example of poor coordination is COR #163 which describes various dimensional discrepancies between the Architectural and Structural drawings, resulting in fabrication of steel angle supports throughout the Project. Even accounting for a Contractor's tendency to issue unneeded RFIs and undocumented change orders, the profusion of Change Orders on this Project (740 CORs) and RFIs (2,363) certainly indicates that areas of the MG2's performance fall below the Architect's Standard of Care.

Because MG2's Architectural CD set was incomplete, lacked basic and/or important information, and was poorly coordinated with the Interior Design (ID), Structural, Mechanical, Electrical and Plumbing (SMEP) drawings, Hedreen incurred additional time and expense to complete and occupy the Project. For purposes of this report, I have itemized those design defects that fall below the Architect's Standard of Care under 3 headings- Sliding Balcony Doors, Rooftop Canopy, and Miscellaneous Change Orders. Where applicable, I have referenced those documents used during my investigation and analysis, and provided my opinion as to accountability or responsibility for these defects.