



Church Renovation, Remodeling, Master Planning, Real Estate Transactions, & Construction Requirements and Guidelines for Congregations

Episcopal Diocese of Texas
Version 4.0 – Revised: August 12, 2013

This document is designed to assist Vestries, Bishop's Committees, Junior Wardens, and building committees in dealing with matters involving the real property, buildings and facilities, and financing in our congregations.

“Church Corp”

The Protestant Episcopal Church Council of the Diocese of Texas (see Exhibits ‘A’ and ‘B’) “Church Corp” is the entity that holds title to the real estate and buildings of the congregations of the Diocese.

Congregations must receive permission from Church Corp prior to: 1) major remodeling (replacing carpeting, painting, minor repairs, etc. excepted); 2) repurposing existing space that involves changes to walls, plumbing or electrical work, or general construction; 3) purchase or sale of land or buildings (including “modular” or manufactured buildings); 4) demolition of buildings; 5) new construction; or, 6) encumbering existing property (e.g. loans or other indebtedness, grants of right-of-way, easements, etc.)

Diocesan Resources

Bob Biehl

Treasurer of the Diocese – rbiehl@epicenter.org – (713) 353-2134

Bob is the primary contact for information or questions on bank financing, appropriate use and levels of debt, construction financing, budgeting and cash flow management, accounting and financial controls, financial reporting, and all other general questions around budgets, accounting, finance, and audits. He is your first report in the event of financial malfeasance. He is also the primary contact for questions about bylaws and incorporation.

David Fisher

Director of Foundations – dfisher@epicenter.org – (713) 353-2109

David is the staff executive for Church Corp, the Episcopal Foundation of Texas, and the Quin Foundation. David is the primary contact for questions regarding the purchase or sale of land, determining when you need to meet with Church Corp for approvals and permissions, and the information required for Church Corp.

David is your contact for planned giving information and the diocesan Participating Fund. The Participating Fund allows a congregation to invest major gifts, building funds, an endowment fund, or other longer-term funds through the Diocese and take advantage of the professional fund managers that invest the corpus of the diocese's endowments including the Quin Foundation, Episcopal Foundation of Texas, Great Commission Foundation, Episcopal Health Foundation, and Church Corp.

David is also your primary contact when you need to file a property/casualty insurance claim or have an incident that may result in a liability claim (other than Safeguarding issues which should be directed to the Safe Church Minister, the Rev. Cecilia Smith).

Bob Schorr

Coordinator for Church Plants and Strategic Development – bschorr@epicenter.org – (713) 353-2108

Bob is the primary initial contact when you begin to think about major repairs or renovations, expansion, master planning, new construction, and capital campaigns. He maintains a list of experienced architects, contractors, capital stewardship consultants, and communications consultants with demonstrated expertise in church work. He can also provide guidance in the selection process, including structured interview questions for selecting these professionals. He can coach and advise throughout the process from initial discussions through construction and dedication. He provides construction project management for church plants and new construction at Mission congregations.

Bob can also assist if you have major issues with your facility, need a recommendation for an engineer (structural, mechanical, lighting, sound, HVAC, civil, hydrologic, or forensic) or other vendors for particular maintenance or repair needs for your congregation.

Additionally, he is the primary governance consultant for vestries and Bishop's committees.

General Guidelines

Project Financing

Large capital projects such as purchasing land or buildings, new construction, or major renovation and repurposing are exciting times, manifest the vision of the congregation, and inspire optimism and growth.

There are three primary funding sources for these projects:

- 1) Congregational Capital Campaign (over and above the annual operating stewardship).

Capital campaigns require the support of a professional consultant (see more on this beginning at Note 13 in the Timeline, below).

No large project should be undertaken without including the congregation through a capital campaign, even if a significant portion of the project is financed through a major gift. It is important that the congregation understands the need for the work and is invested in supporting the project through the capital campaign. Even if the entire amount of the major piece of the project is funded through a gift, there are always other needs – such as deferred maintenance or general improvement and upgrades –that can be included in the project and funded through a capital campaign.

Without including the congregation, they may not understand why this project was done rather than something else; come to think that their stewardship is not important because somebody else will fund what we need; or come to assume or expect that someone else will step forward to fund capital needs.

- 2) Major Gifts – Undesignated, Designated, Planned Giving, and Bequests.

Designated gifts, regardless of source, need to be received carefully and subject to a Designated Gifts Policy developed and updated frequently by the Vestry/Bishop's Committee. This policy includes a list of unmet needs, rather than something a donor wants to donate, but for which the church may not desire, need, or use.

The Vestry/Bishop's Committee should also be thoughtful in receiving large undesignated gifts to assure the proper stewardship of such funds.

3) Debt from either foundations or commercial banks.

The Crump Foundation offers a one-time post-construction loan of up to \$500,000 at two (2%) percent on a twenty-year amortization. Commercial bank loans are also available.

David Fisher can advise on the Crump Foundation. Bob Biehl will recommend banks and advise on appropriate loan structures and terms. The Diocese is a co-signer on all loan documents.

The Diocesan Treasurer has developed guidelines to determine appropriate debt loads (levels). In calculating your debt load, include current debt of all kinds and any planned debt related to the upcoming project. The formula to determine debt load is:

$$\text{Annual Debt Service} \div \text{Annual Operating Budget.}$$

For example, a Church has existing debt and pays \$3,350 per month in principal and interest payments. The Church's annual Operating Budget is \$425,000. $\$3,350 \times 12 \text{ months} = \$40,200 \div \$425,000 = .0946$ or 9.5%.

Debt Load Guidelines and Limits:

Up to 10% = Acceptable debt level. Should be manageable without significant strain on ministries and programs

10% - 15% = Heavier debt load. Should be manageable with careful planning.

16% - 19% = Risky debt load. Staffing, programming, and maintenance needs will compete with – and often concede priority to – debt service in budget decisions, often negatively impacting congregational vitality and growth.

20% = Absolute upper limit. Negatively impacts staffing, programming and other ministries

An alternative 20% debt ratio limit is: Debt \leq \$10,000 per pledging unit.

Congregations requesting approval of projects with a projected debt load in excess of 15% will need to substantiate their ability to service the debt (principal and interest) and still support the staffing, programming, and ministries needed to maintain and grow a healthy congregation.

Hiring Members of the Congregation

Congregations are strongly discouraged from hiring, retaining, or contracting with members of the congregation for employment or professional services. With respect to capital projects, hiring an architect, contractor, capital stewardship consultant, or subcontractor creates a conflict of interest. It also puts that individual's congregational relationship and membership at risk. It is virtually impossible to conduct an arm's length/independent third party relationship with a member of the congregation who is providing professional services for a fee or under a contract to the congregation. Disagreements related to the project can cause additional friction and can create division and discord within the congregation.

Budgeting

In a major construction or renovation effort, the vision and desires of the congregation and its leadership are often greater than the financial resources available for the project. However, good stewardship, good *long-term stewardship*, and a successful building project can be enhanced by keeping a few principals in mind.

Furnishings

While the construction contract should include all finishes (carpet, wall coverings, flooring, etc.) and permanently installed items such as bookshelves, cabinets in a kitchen, workroom, or classroom, etc. it will not include furnishings such as tables, chairs, file cabinets, and anything else that is not attached to the building. The Project Budget should also include a line item for Furnishings.

Some items may be in the construction contract or listed under “Owner Installed Items”. This category can include things that the Building Committee has not finalized at the time of the contract or for which it wants to provide the sourcing, bidding, and installation. Examples include Dry Erase (“white”) boards and TV/DVDs in classrooms, or appliances such as ice makers, refrigerators, freezers, etc.

When a budget is “tight”, furnishings can be deferred in the near term without compromising the size, scale, and long-term benefits of the building.

Contingency Fund

No significant building project can anticipate, plan, and budget for all conditions and needs during the planning phase. Experience teaches us to anticipate some “surprises” during construction – almost all of which will have a price tag associated with them. For example, discovering that the sewer line for the existing education building is actually *under* the new Mission Center that is being constructed (which explains why you just filled the sewer with concrete when you poured the piers for the new building and need a fast reroute of the line to get the education building restrooms back in service).

In addition, there will be certain things that were not identified in the planning process that only become apparent and obvious during construction. Examples include small items such as a missing electrical outlet, issues related to tying into an existing building, identifying a better use for new found “dead space”, or realizing that, “This area is not as big as it looked on the drawings”, etc. All of these items can be addressed through a construction Change Order, at an additional cost to the project.

Thus, the congregation must include a Contingency Fund that is a percentage of the total project budget. A 10% contingency fund is recommended (calculated on the value of the construction costs + architectural and engineering fees, permits, etc.). It is important to note that this is separate and apart from any “contingency” or “contingency fund” line item that you may see in the contractor’s preliminary pricing or final contract. That is *the contractor’s contingency*. The Building Committee needs its own line item in its overall project budget.

Maintenance Endowment

Many public institutions today also include in the project budget an amount that will become the corpus of a long term maintenance endowment for the building. This is also typically 10% of the final project cost (including the owner’s Contingency Fund). This perpetual fund provides the funds for major maintenance over the life of the building. Examples include replacement of the roof, major electrical and mechanical systems (transformers, HVAC equipment), major updating of restrooms, lighting and sound systems, as well as interior and exterior painting, carpeting and other updating. It is not used for operating costs such as utilities, consumables (light bulbs, paper products, etc.), janitorial, and regular maintenance and repairs.

The Diocesan Participating Fund is available for congregations for endowment funds and other long term investments. It provides professional management at an attractive fee structure by participating in the managed funds of the Diocese’s several major foundations. David Fisher can provide additional information on this fund.

Timeline

The following is a general outline of the major steps in the process – from initial discussions through dedication – for projects involving Master Planning, new construction, or major renovation.

Although not specifically included in the steps below, a comprehensive strategic communications plan is an important aspect of the overall process to demonstrate transparency, gain understanding and support for the project within the congregation, build momentum and enthusiasm leading up to the capital campaign, support the capital campaign, and maintain interest and answer questions during construction.

- 1) Initial identification of need(s) surface(s) among the leadership and the Vestry/Bishop's Committee begins discussions.
- 2) Review and updating (if necessary) of the Vision Document (Core Values, Mission Statement, Vision Statement and action plans)
- 3) Determination by Vestry or Bishop's Committee to form a Building Committee to explore options, develop a new Master Plan, etc. Smaller projects involving only modifications to existing space or minor expansion may not be require a Master Plan, but the services of an architect likely will be.
 - a. Identify internal funding (within the congregation) for planning and initial design work
- 4) Contact Diocese for counsel and recommendation of architects, engineers, or other professionals.
- 5) Develop Plans or Master Plan.
 - a. If the scope of the work requires a Master Plan – or an update of a previous Master Plan – the architect will conduct this process. This usually requires 4 - 6 months to complete, including solicitation of input from the congregation. This is the first step in building broad support for a project that usually requires a capital campaign to raise the necessary funds.
 - b. If the project only requires design, engineering and construction drawings, the committee begins meeting with the architect to define the needs and scope of the project.
- 6) Adoption of Master Plan or approval of the preliminary design plans by the Vestry or Bishop's Committee.
- 7) Vestry or Bishop's Committee decision to proceed.
 - a. For a Master Plan, the decision is to begin plans and feasibility study of "Phase I" (the project) of the Master Plan.
 - b. For a smaller project, the decision is to authorize the Building Committee and architect to begin detailed construction drawings.
- 8) Informational meeting with Diocesan Resource Team (Biehl, Fisher, Schorr) to review overall Project status and timeline and the timing of the Church Corp presentation.
- 9) Engage architect to work with Building Committee on Schematic Design for the project.
- 10) Engage general contractor. The current recommended practice is to select the contractor early in the design process. This establishes the team that will see you through construction. Having both architect and contractor at the table during the design phase provides perspective and input on

options for materials, construction types and techniques, and preliminary pricing through the contractor and their sub-contractors.

- a. It is strongly recommend that each phase of new construction include significant refurbishing and/or upgrades to the existing facilities such as carpet, paint, modernizing restrooms, improving accessibility, updating lighting, etc. as well as “Curb Appeal” items such as exterior painting, parking, landscaping, exterior lighting, and signage. This helps us remember that we are stewards of all of God’s property so that the bright new facilities are not located on a campus that is clearly in need of maintenance, repair, or updating.
- 11) Finance Committee (Standing or Ad Hoc) begins developing Five Year Financial Plan and projections. In conversation with Diocese, they also assess the opportunity and capacity for debt financing (commercial banks, Crump loan) to support the cost of the project.
 - 12) Present Detailed Design and Preliminary Cost Estimate to Vestry for review and approval to continue with project.
 - 13) Capital Stewardship Consultant. No congregation should attempt to raise capital dollars without assistance from a profession firm or individual. It is critically important to the success of the building project to secure sufficient funding without negatively impacting ongoing operating stewardship. A feasibility study is usually the first step in preparing for a campaign (see 14, below). While recommended for all, smaller congregations and campaigns may choose not to do this step.

In addition to the capital stewardship consultant, it is important to have the campaign supported by a strategic communications consultant to assist in developing comprehensive communications plan and provide quality video and print collateral materials.
 - 14) Feasibility Study. The first step for the capital stewardship consultant is to review the Vision Document, plans for the new construction or renovation, and the congregation’s financial reports. They will then conduct a feasibility study, including interviews with members of the congregation, to develop an estimate of the amount of funds that can be raised for the project.
 - a. As a rule of thumb, a healthy congregation can raise from 1 – 3 times (typically around 1.5) their current pledges plus regular giving (persons who do not sign a pledge card, but have an established giving pattern by check, envelope, or electronic giving).
 - 15) Capital Campaign Committee. Concurrent with the feasibility study, the Vestry/Bishop’s Committee appoints the Chair and members of the Capital Campaign Committee. This committee will work closely with, and under the guidance and direction of, the Consultant. It is common practice to conduct a joint capital and operating stewardship campaign in the fall. A well run campaign in a healthy congregation usually results in both a successful capital campaign and a demonstrable increase in annual operating giving.
 - 16) Vestry/Bishop’s Committee reviews Feasibility Study, current project cost estimate, and debt capacity.
 - 17) Vestry/Bishop’s Committee approves capital campaign goal (\$); authorizes Committee to proceed with campaign; and, provides guidance to building committee on project scope and budget.
 - 18) Finance Committee begins negotiations with potential lenders for construction financing and (if approved by Vestry/Bishop’s Committee) long-term debt financing.

- 19) Building Committee works with architect and contractor to align design and cost estimate to approved project scope and budget. Some aspects of the project – or the overall project – may move to more detailed design at this time to improve the accuracy of the cost estimates.
- 20) Capital campaign concluded. Vestry/Bishop's Committee reviews campaign results, Finance Committee recommendations on financing (campaign proceeds and debt), and updated Project cost estimate.
- 21) Vestry/Bishop's Committee approves final project scope and budget.
- 22) Building Committee finalizes construction documents with architect.
- 23) File plans and construction drawings with TDLR (Texas Department of Licensing and Regulation) for ADA (Americans with Disabilities Act) compliance.

The architect, interior designer, landscape architect, or engineer with overall responsibility for the design of a building or facility is responsible for making the filing in compliance with TDLR regulations.

For the current regulations, go to: <http://www.tdlr.state.tx.us/ab/abrules.htm#r6850>

Exhibit 'C' – at the end of this document – includes selected applicable Sections of the Requirements, current as of August 2013, and are included for information only.

- 24) Contractor requests bids from subcontractors (to arrive shortly before Church Corp meeting).
- 25) Meeting with Church Corp to present recommendation and request approval. Presentation includes a review of Master Plan, design, scope, and cost for the project, five year financial projections including operating costs for new facilities, debt service, and capacity to meet the mission, ministry, programmatic, and staffing needs of a growing congregation.
- 26) Church Corp Approval. Once received, the Building and Finance Committees are ready to finalize financing and construction contracts.
- 27) Groundbreaking Service. It is customary to have a Bishop present.
 - a. If the project involves repurposing space that was previously consecrated for sacred use – e.g. the current Nave is being repurposed to a Parish Hall and the project is to build a new Nave – the consecrated space must be secularized prior to commencing construction.
- 28) Construction begins. The Building Committee names a Project Manager as the primary day-to-day contact with contractor's Site Superintendent, Project Manager, and the architect. Building Committee remains ready to meet quickly, as needed, to address questions for clarification, contingencies, and change orders in order to keep project on schedule and on budget.
- 29) Construction Progress Meetings. Generally held on site every two weeks with the Superintendent, contractor's Project Manager, architect, congregation's Project Manager, and members of the Building Committee as available and required.
- 30) Dedication Service. If the construction involves new worship space, a Bishop is present for the dedication and consecration of the new sacred space.
- 31) Follow-on Capital Campaign. Evaluate the need – and the congregation's energy and readiness – for a follow-on campaign. Follow-on campaigns are not always appropriate, particularly if the

congregation is smaller, has not grown substantially, or if there is a feeling of ‘capital campaign fatigue’ in the congregation.

If the congregation will be carrying a substantial debt load following the end of the capital campaign payments (generally three years), it is important for the leadership to discuss the impact of the debt on the budget and the timing and readiness of the congregation for the next campaign. While an immediate follow-on may not be appropriate, neither is spending a large portion of the budget on long term principal and interest payments that inhibit mission, ministry, programs and staffing.

Thus, taking a break may be appropriate – but perhaps one of a planned and defined period – with a commitment to another campaign to pay down a significant portion of the principal on the debt. This campaign can also include enhancements or upgrades to existing facilities as well.

For healthy and growing congregations with additional facility needs and a clear desire to continue their growth, a follow-on campaign is an option. The most seamless process is a campaign that takes place during the final six months of the three-year payment period of the initial campaign.

The benefits of such a disciplined practice are:

- a. It avoids losing the momentum of the building and capital campaign and captures the organization and knowledge that is present in the congregation.
- b. It invites all those who joined the church since the last capital campaign – and who are enjoying and benefiting from it – to participate and contribute.
- c. Before donors to the first campaign finish their final pledge payment (typically 36 months), they are invited to continue to ‘Build the Kingdom’ in the next phase of the vision and mission of the congregation.

Determining which approach is the right one for your congregation is a local decision. The challenge in any organization is sustaining a clear vision, energy, and growth while not exhausting or discouraging the congregation. A capital and building campaign requires tremendous organization, energy, and effort to do well. A congregation’s ability to capture some of that energy in an immediate follow-on campaign – or a planned next campaign after a defined break to let the congregation catch its collective breath – has its benefits.

While this document has likely addressed many of your questions, please don’t hesitate to contact Bob Biehl, David Fisher, or Bob Schorr if you have additional questions or would like guidance in some other area.

Best wishes for a successful project!

Exhibit ‘A’

Constitution of the Episcopal Diocese of Texas

Article 9

PROPERTY

Section 9.1 Title to Real Property

The title to all real estate acquired for use of the Church in this diocese, including Parishes and Missions, as well as institutions of a diocesan character, shall be held subject to control of the Church in the Diocese of Texas acting by and through the Church Corporation known as the “Protestant Episcopal Church Council of the Diocese of Texas”; provided, that (a) with consent of the Bishop, the Episcopal Foundation of Texas, The Bishop Quin Foundation, and St. Luke's Episcopal Hospital (“St. Luke's”) and any affiliate of St. Luke's may each hold title to real property and may control, convey, and encumber such property without the consent, approval, or joinder of the Church Corporation, and (b) title to certain real property and related improvements, fixtures, appurtenances, and contract rights, as determined by the Church Corporation with the consent of the Bishop, may be held by and subject to the control of one or more separate Texas nonprofit corporations to be formed by the Diocese of Texas. The term “affiliate of St. Luke's” shall mean any Texas nonprofit corporation (“nonprofit corporation”) created and administered for the sole benefit of St. Luke's and any nonprofit corporation of which St. Luke's or a nonprofit corporation created and administered for the sole benefit of St. Luke's is the sole member, as the term member is defined in the Texas Non Profit Corporation Act. Subject to the foregoing, all such property hereafter acquired for use of the Church in the Diocese, including Parishes and Missions, shall be vested in the Protestant Episcopal Church Council of the Diocese of Texas.

Section 9.2 Diocesan Property

Except as otherwise provided in Section 9.1, all property belonging to the Diocese, as such, shall be held in the name of the Church Corporation known as “Protestant Episcopal Church Council of the Diocese of Texas”; and no conveyance or encumbrance of any kind or character, unless it relates to property vested in the name of the Episcopal Foundation of Texas or The Bishop Quin Foundation, shall be valid unless executed by such corporation and as may otherwise be provided by the Canons of the Diocese. All permanent funds of the Diocese, except those funds held by the Episcopal Foundation of Texas and The Bishop Quin Foundation, shall be held and invested by the “Protestant Episcopal Church Council of the Diocese of Texas”.

EXHIBIT 'B'

Canons of the Diocese of Texas

Canon 20

PROPERTY AND LIABILITY INSURANCE

Section 20.1 Committee to Investigate Status and Report

At each Annual Council the Bishop shall appoint a Committee of three, whose duty it shall be to inquire into the status of property and liability insurance of each Diocesan entity, as defined in Canon 22. The Committee shall make an annual report to the Executive Board showing the amounts and kind of property and liability insurance carried by each such Diocesan entity with the recommendations of the Committee. The Executive Board shall have authority to require each Diocesan entity to obtain and maintain property and liability insurance with coverage and limits established by the Executive Board, which requirements may rely in part on the recommendations of the Committee.

Section 20.2 Liability Insurance

Absent express written exception by the Bishop, each Diocesan entity, as defined in Canon 22, shall be required to (a) have general liability insurance coverage of at least one million dollars (\$1,000,000.00), and (b) have liability insurance coverage against sexual misconduct which is at least equal to the lesser of (i) the maximum coverage and limits available from the Church Insurance Corporation, or (ii) the coverage and limits required by the Executive Board.

Canon 21

PROPERTY

Section 21.1 Title to Property

The title to all real estate and other property acquired for the use of the Church in this Diocese, as well as to property conveyed to institutions of a Diocesan character or for their use, shall be vested as provided in Article 9 of the Constitution.

Section 21.2 Sale, Lease, or Other Disposition

If the particular use for which such property has been conveyed or the purpose of the trust fails and it becomes necessary to sell or lease the property, or otherwise dispose of it, the Church Corporation known as the Protestant Episcopal Church Council of the Diocese of Texas, with the advice and consent of the Standing Committee, or a majority of the members of that body, or of the Bishop, is hereby authorized to execute such legal instruments as may be necessary to convey, lease, or effect such other disposition as is herein authorized.

Section 21.3 Right to Sell, Convey, or Encumber

No Rector, Wardens, or Vestry shall, by deed or otherwise, without the written consent of the Bishop or the Standing Committee or a majority of the members of that body, if there be no Bishop, alienate, convey, or in any manner dispose of any lands or real property, title to which is in them vested as aforesaid, nor charge or in any manner encumber the same for any purpose whatever. No conveyance or encumbrance of real property shall be valid unless joined in or approved by the Church Corporation.

Canon 22

INCORPORATION AND MINISTRY EMPLOYEES OF A DIOCESAN ENTITY

Section 22.1 *Incorporation of a Diocesan Entity*

Any Diocesan entity, as defined herein, may incorporate or exist in any corporate form upon and subject to the terms and conditions of the Constitution and Canons.

For the purpose of this Canon, the following terms shall have the meanings set forth below. The term “Diocesan entity” shall mean the Protestant Episcopal Church in the Diocese of Texas (the “Diocese”), any Parish or Mission of the Diocese, any Episcopal school of the Diocese, as defined in the Canons, and any other entity expressly identified, singularly or by category, in the Constitution and Canons as an instrumentality or entity of the Diocese. The terms “Constitution” or “Canons” shall mean the existing Constitution or Canons, respectively, of the Diocese, and any amendment thereof. The term “Act” shall mean the Texas Nonprofit Corporation Act and any amendment thereof.

Section 22.2 *Consent of the Bishop*

The Articles of Incorporation and By-Laws of each incorporated Diocesan entity, and any amendment, modification, or restatement thereof, shall at all times require the prior written consent of the Bishop. The Bishop shall have the right to require the amendment, modification, or restatement of the Articles of Incorporation, or By-Laws, or both, of each incorporated Diocesan entity at any time and from time to time as a condition to the Bishop's consent, or the continuation of such consent. If the office of Bishop is vacant, the rights and duties of the Bishop, as set forth in this Canon, shall be those of the Ecclesiastical Authority of the Diocese.

EXHIBIT 'C'

Texas Department of Licensing and Regulation

(Selected Excerpts as of August 2013)

Website: <http://www.tdlr.state.tx.us/ab/abrules.htm#r6850>

68.50. Submission of Construction Documents. *(New rule section effective November 5, 2001, 26 TexReg 8807; amended effective February 1, 2005, 30 TexReg 382; amended effective March 1, 2007, 32 TexReg 884; amended effective March 15, 2012, 37 TexReg 677)*

(a) An architect, interior designer, landscape architect, or engineer with overall responsibility for the design of a building or facility subject to §469.101 of the Act, shall mail, ship, or hand-deliver the construction documents along with a Proof of Submission form to the department, a registered accessibility specialist, or a contract provider not later than the twentieth day after the plans and specifications are issued. In computing time under this subsection, a Saturday, Sunday or legal holiday is not included.

(b) In instances when there is not a design professional with overall responsibility, the owner of a building or facility subject to §469.101 of the Act, shall mail, ship, or hand-deliver construction documents to the department, a registered accessibility specialist, or a contract provider prior to filing an application for building permit or commencement of construction.

(c) An Architectural Barriers Project Registration form or Architectural Barriers Project Registration Confirmation Page must be completed for each subject building or facility and submitted along with the applicable fees when the design professional or owner submits the construction documents.

68.51. Review of Construction Documents. *(New rule section effective November 5, 2001, 26 TexReg 8807; amended effective February 1, 2005, 30 TexReg 382; amended effective March 1, 2007, 31 TexReg 884)*

(a) After review, the owner and the person making the submission will be advised in writing of the plan review findings.

(b) Construction documents received by the department, a registered accessibility specialist, or a contract provider shall become the property of the department.

(c) Design revisions may be made by submitting to the department, a registered accessibility specialist, or a contract provider revised construction documents, change orders, addenda, and letters.

(1) Resubmittals received prior to the recorded estimated completion of construction will be reviewed. The owner and the person making the resubmittal will be advised of the findings.

(2) Resubmittals received after completion of construction, based on the recorded estimated completion of construction, may not be reviewed but will become a matter of record.

68.52. Inspections. *(New rule section effective November 5, 2001, 26 TexReg 8807; amended effective February 1, 2005, 30 TexReg 382; amended effective March 1, 2007, 32 TexReg 884)*

(a) The owner of a building or facility subject to §469.101 of the Act shall obtain an inspection from the department, a registered accessibility specialist, or a contract provider not later than the first anniversary of the completion of construction. Request for inspection shall be made by completing the Request for Inspection form and submitting it to the department, a registered accessibility specialist, or contract provider not later than 30 calendar days after the completion of construction. If the Request for Inspection form is submitted to the Department, the form must be accompanied by the applicable inspection fee in §68.80(a).

(b) The department, a registered accessibility specialist, or a contract provider shall receive the Request for Inspection form prior to proceeding with the inspection.

(c) The owner shall be advised in writing of the results of each inspection.

68.53. Corrective Modifications Following Inspection. *(New rule section effective November 5, 2001, 26 TexReg 8807; amended effective February 1, 2005, 30 TexReg 382; amended effective March 1, 2007, 32 TexReg 884)*

(a) When corrective modifications are required to achieve compliance, the department, a registered accessibility specialist, or a contract provider shall:

(1) provide the owner a list of deficiencies and a deadline for completing modifications; and

(2) grant an extension, consistent with established procedures, if satisfactory evidence is presented showing that the time period specified is inadequate to perform the necessary corrections.

(b) When corrective modifications are required to achieve compliance, the owner shall provide written verification of the corrective modifications to the department, a registered accessibility specialist, or a contract provider.

68.54. Review and Inspection of Buildings and Facilities with an Estimated Construction Cost of Less than \$50,000 or Not Subject to the Act. *(New rule section effective March 1, 2007, 32 TexReg 884)*

(a) When construction documents for projects with an estimated construction cost of less than \$50,000 are mailed, shipped or hand-delivered with an Architectural Barriers Special Registration Form to the department along with the applicable fees in §68.80(b), after review, the owner and the person making the submission will be advised in writing of the findings. A request for inspection is not considered complete until the department receives the applicable inspection fee in §68.80(b). The owner shall be advised in writing of the results of each inspection.

(b) When construction documents for projects not subject to §469.003 of the Act are mailed, shipped or hand-delivered with an Architectural Barriers Special Registration Form to the department along with the applicable fees in §68.80(c), after review, the owner and the person making the submission will be advised in writing of the findings. A request for inspection is not considered complete until the department receives the applicable inspection fee in §68.80(c). The owner shall be advised in writing of the results of each inspection.

68.55. Preliminary Plan Reviews. *(New rule section effective March 1, 2007, 32 TexReg 884)*

When preliminary construction documents are mailed, shipped or hand-delivered with an Architectural Barriers Special Registration Form to the department along with the applicable fee in §68.80(d), after review, the owner and the person making the submission will be advised in writing of the findings.

68.60. Notice of Substantial Compliance. *(New rule section effective March 1, 2007, 32 TexReg 884)*

The Department shall provide a Notice of Substantial Compliance to the owner, at the owner's request through submission of a Notice of Substantial Compliance Request Form, after a newly constructed building or facility has had a satisfactory inspection or verification of corrective modifications has been submitted.