



Legal Issues With Building Information Modeling

The benefits of Building Information Modeling (BIM) are widely touted: Higher quality of work; better coordination among architect, engineers, and trades; cost savings; and faster production. It is fundamentally different than preceding models in that it is a “shared knowledge resource.” And it is the collaborative aspect of this model which gives rise to significant legal concerns.

The AGC defines BIM as “...the development and use of a computer software model to simulate the construction and operation of a facility.” The result is a 3-dimensional digital model of the facility, from which data needed by various users can be extracted. It is built through the collaboration of stakeholders in the design and construction of a building and synthesizes the drawings of the architect, structural engineer, mechanical, electrical and plumbing designers and trades. It can also incorporate the shop drawings and submittals of the contractor and various trades.

Perhaps the chief concern is who bears responsibility for the resulting product. With so many contributors to a BIM design project, responsibility for particular submissions may be difficult to determine. Initial design submittals can be altered by later actors. In this scenario, can the individual contributing the flaw be determined? Is there a shared responsibility when the end product is flawed?

Some in the design community have reacted to these concerns with contractual language absolving them of responsibility for their product. This is obviously not acceptable to an owner, who must have recourse for design flaws. But this reactive impulse is launching the dialogue in the right direction. The answer lies in careful evaluation and dialogue before the project begins, resulting in contract language that fairly balances responsibilities. Well-drafted contracts will not assuage all concerns. The field is too new, and there is little, if any, judicial guidance to follow. The compelling benefits of BIM dictate its usage, while prudence demands awareness of, and paying attention to, the hazards.