

Press Release From Jan De Beer, Cell 082 456 3677:

Small And Emerging Builders Suffer Most From Contractual Ignorance

At least 100 000 people are involved with building contracts in the South African construction sector every year – but the majority know very little of the contracts in common use, or the legal procedures to be followed during the course of a building project.

This is the view of Uwe Putlitz, CEO of the Joint Building Contracts Committee (JBCC), South Africa's leading organisation in the compilation of documents that protect the rights of all parties involved in building contracts.

Putlitz says there is alarming lack of awareness among smaller, and the so-called “emerging building contractors”, about the need to protect their interests through proper contract documentation. “Many emerging contractors lack communication and administrative skills in addition to limited technical skills and the use of labour-saving equipment. Subcontractors also are often abused by main contractors particularly when it comes to payments which are often not made at all or are made late or partially. This kind of practice holds grave dangers when it comes to survival for the smaller builder in a struggling sector of our economy. The situation is exacerbated because far too few subcontractors or emerging contractors work on a project without having had their appointment – and working operations – formally ratified in a recognised form of contract,” Putlitz stated.

“Then, to make matters even worse, many subcontractors or emerging contractors tend to read whatever form of contract they hold only when a crisis arrives on site,” he added.

Putlitz says JBCC recognises that the contractual needs of the now substantially increased number of small builders and subcontractors operating in South Africa differ markedly from the situation, say 20 years ago. JBCC has therefore already considerably started simplifying the use of language and style of writing since the 2014 editions of JBCC Agreements. Future editions will include further improvements in choice of wording, with more sub-clauses instead of long clauses to confuse the smaller operator, and also incorporate a simplification in the layout of the text.

“But basically, if a JBCC Agreement is in place, the main and smaller contractors – as well as the principal agent - involved in a building project merely have to follow the content of the Agreement's clauses within the stipulated time limits to avoid disputes. But far too many of these parties regard contract administration as time-consuming and consider compliance with statutory and contractual provisions as a nuisance and serious threat to their company's productivity. So important contractual obligations, such as inspections on site, record keeping, and issuing of instructions and various certificates, tend to be neglected.”

Indecisive and dictatorial employers and their principal agents can also cause spiralling strife on a building project. “Although JBCC Agreements form a binding contract between all the parties involved on a building project, far too many employers - after the Agreement has been signed - make changes that are unfair to contractors. This leads to the contractors in turn imposing totally unfair performance and payment conditions on subcontractors. At JBCC training seminars, we therefore concentrate on the

unintended, but also inevitable, consequences of such changes to the original Agreement. The employer may think the change to an Agreement is minimal but often the repercussions are far-reaching for the rest of the construction team. The disputes and stress on site that follow such unexpected late changes to Agreements is disruptive to performance and could be avoided if the provisions in the contract are followed by all parties concerned,” he added.

JBCC presents 10 to 12 training seminars in most of the main centres of South Africa every year: twice annually in Cape Town, Johannesburg and Durban and annually in smaller centres. JBCC also presents in-house seminars, tailoring the content to suit the user: for example, focusing on clauses relevant to contractors, subcontractors or property developers.

Contact info@jbcc.co.za for the dates of next year’s scheduled seminars.

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Caption: ‘jbcc – construction workers on site’:

Subcontractors and smaller builders ignore the importance of building contracts at their own peril, JBCC has warned.

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