

W087 - Post-Construction Liability and Insurance

A detailed report on the 15th Plenary Meeting of W087 which took place at the University of Sydney, Australia on 27th and 28th September 1999 was included in the [previous issue](#) of INFORMATION, thanks to a prompt write-up by Coordinator Prof. Anthony Lavers.

Whither W087?

Since then, the usual comprehensive Minutes have been produced and it is felt to be of interest to reproduce the section reporting on the Future Directions for W087.

The legal side of CIB's activities will continue to be of particular importance and the fact that W087 has now successfully completed the major projects which it set itself, makes it timely to review its work plans for the up-coming period.

The Minutes note that in Sydney the Coordinator opened the discussion by asking whether the world still needed W087. He ascertained that there was a consensus view that it did.

He then tabled suggestions:

- Maintenance, Use and Liability
- Deepak Bajaj suggested post-construction liability and insurance issues in BOT projects
- Stephen Smith suggested research and publication of a study on "Optimising Insurance Risk in Post-Construction Damage Liability"
- Kim Lovegrove suggested "How to Consolidate Resources for Insurance Inspectors Concerning the Risk Environment (Residential Property)"

The Coordinator invited comments from the insurers present.

Chris Bovill stressed the importance of differentiating between residential and commercial property. Rikard Öijermark thought it would be interesting to research the impact of performance-based codes on post-construction liability and insurance, but acknowledged that this would be a huge enterprise.

Ron Craig asked whether bonds and guarantees in general would be included in the term "insurance". The Coordinator reminded the meeting of W087's terms of reference (liability and insurance in the post-construction situation). Ratko Cikusa said that the scope of bonds was expanding, and suggested that this be taken into consideration. Rikard Öijermark, considering his own experience, agreed with this. Kjell Jutehammar came back to performance after completion. For the first year, in Sweden, the contractor normally had a "post-construction performance bond".

Stephen Smith thought that a diversion into bonds and similar would be counterproductive. Mr. Clive Parish, a Construction Underwriter from the UK who was attending as a Guest, thought that there was overlapping, but still thought that W087 should concentrate on the purely post-construction period.

The Coordinator then summed up the proposals that had been tabled:

- A "Model Building Code" (or Model Legislative Provisions for Liability and Insurance, involving the collection of best practice), proposed two years ago
- The Role of Instructions for Use and Maintenance in Allocating Liability, proposed three years ago
- Optimisation and Risk Management in Post-Construction Insurance, with (a) particular regard to home warranties, or (b) for all projects
- Impact of Performance-Based Codes on Post-Construction Liability and Insurance, proposed last year and an integral part of the Model Post-Construction Liability and Insurance System ([CIB Publication 192](#), 1996)
- Post-Construction Issues Deriving from BOT Projects

Prof. Lavers proposal was that two or three of these should be selected.

Ron Craig enquired about members' expertise. The Coordinator thought that the two E & FN Spon publications demonstrated that expertise within the membership itself was not necessarily a precondition, since contributing expertise could be recruited by members.

Mr. Parish asked whether the BOT proposal would be particularly geared to projects with multi-national participation. The Coordinator thought that this could be a sub-division.

Topics Selected - Sub-Groups Set Up

The Coordinator then invited expressions of interest in the proposals and stressed the importance of having expertise from three or more jurisdictions and creating sub-groups of at least four members.

He found that the following proposals corresponded to these criteria:

1. Optimisation... rephrased as follows: "Optimisation of Risk in Post-Construction Insurance". There was no decision as to (a) (with particular regard to home warranties), or (b) (for all projects). A Sub-Group was set up.
2. A "Model Building Code". A Sub-Group was also set up.
3. Impact of Performance-Based Coded on Post-Construction Liability and Insurance. The Coordinator thought that this could be part of the next Triennial CIB Congress (Wellington, New Zealand, 2001), for instance as a seminar. Stephen Smith noted that there was little or no experience to be drawn upon. The Coordinator thought that this topic might have to be put on a back burner for a year or so.
4. Post-Construction Issues Deriving from BOT Projects. A third Sub-Group was set up.

Clearly W087 is looking at some taxing but potentially extremely topical issues.



An interesting adjunct to the W087 meeting was a visit by the participants to the Olympic Games Sites - and of course a Group photograph recorded the scene!