



## PRINCIPAL AGENTS make or break projects

Successful completion of building projects largely depends on the competence of the principal agent – and it is essential that this key role player is properly equipped to handle this vital role, says Uwe Putlitz, CEO of the Joint Building Contracts Committee (JBCC).

Putlitz says poor principal agency functioning is increasingly causing disputes and disruptions in South African building projects. In many cases, the appointed agent did not have the necessary experience and was erroneously appointed, he feels.

“There is no specialised training course or recognised qualification that a principal agent must complete. But to properly fulfil his or her duties, the agent must at the very least have a Bachelor’s degree in architecture, building science, engineering, or quantity surveying. It is also necessary for the agent to have professional registration with a statutory body such as the South African Council for the Project and Construction Management Professions.”

The training is vital – and so is the personality traits of the principal agent. “This is not a job for the meek and mild, nor the disorganised. Effective principal agents should be able to deal with all involved with the contract authoritatively and methodically. Contract administration requires the management of a vast amount of information in a manner where it can be retrieved and monitored at short notice, using the appropriate technological aids to suit the nature of a project.”

Putlitz says today’s principal agent’s role is complex and a far cry from the ‘employer’s agent’ of old.

“Building contracts traditionally included an employer’s agent to administer the execution of the works by the contractor and subcontractors. This agent was usually the consulting engineer or architect who designed the works. However, in recent years the execution function has been separated from the design function by the emergence of a ‘principal consultant’ to coordinate the numerous disciplines involved in modern buildings, and the ‘principal agent’ (or ‘contract

In carrying out the agency function, the principal agent must ensure that:

- The parties to the contract have complied with legal and tender formalities.
- The construction team have timeously been issued with all relevant construction information.
- The construction team are working at the required pace to complete the project by the specified date.
- The construction team are achieving specified quality standards.
- The construction team is paid fairly – and on time – for work correctly completed.
- Non-compliant aspects of the works are promptly dealt with as they arise.
- Potential claims for a revision of the date for practical completion is handled timeously.
- Potential claims for an adjustment of the contract value is also promptly dealt with.
- The project is concluded as specified, all administrative and other compliance certificates are recorded, and all parties paid their due.

administrator’ in some standard form contracts) to administer and manage the construction phase. In some standard form contracts, this person is referred to as the ‘project manager’ whose duties may be limited to the execution phase, or include the pre and post-construction phases.”

In an English court case (*Scheldebouw BV vs St James Homes*), it was held that the principal agent has, in the first place, an agency function to execute instructions from the employer and, secondly, a decision-making function when the employer and contractor may have opposing interests.

“The principal agent must act proactively to avoid potential disputes. This requires regular monitoring of the execution of the works, liaison with all stakeholders, and dealing with all claims competently and within the time constraints of the standard form contract used. Here, the second professional obligation of the principal agent as laid down in court comes to the fore when the employer may have expectations not provide for in the contract documentation.

“The execution of any building project requires team work, good communication and competent administration apart from the construction skills. Should any dispute arise and the project records are not incomplete or not easily accessible, it will be more difficult, time consuming and expensive to resolve such issues,” Putlitz adds. ■