

Construction contracts only exist on paper

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I was recently invited to a round table dispute resolution meeting, which I found quite intriguing. This was a case where a client was not happy with the office fit-out work done by the contractor.

What's most interesting is the two parties were childhood pals and seemed to have entered into an informal session. See, the client went on and on, saying that his office was lacking the *wow* effect promised by his friend at the time of drawing the contract and was thus unwilling to pay the agreed monies. The contractor on the other hand wouldn't budge and was ready to fixate the client!

Quotations

I saw the said site and could understand the client's sentiments. But when he (the client) said, "but this did not come out like the Stanchart offices interiors", I was left me a little flabbergasted.

As a QS I asked to peruse all documents, which I would now like to note included only the designs and quotations. I felt the urge to visualise how what was on paper was comparing and contrasting with the "Stanchart" works.

It may be worth noting that this was a design and build contract where usually the contractor designs and implements. Further, I confirmed that this contractor was neither an architect, interior designer nor a draftsman but just a businessman seeking to earn a living.

How was he then expected to fulfill the client's tastes and preferences?

I went through the quotation and made parallel bills of quantities. This was geared towards confirming the scope of works. At a glance, everything seemed taken care of until I noticed the ambiguity in quantities and descriptions in the quotation



Discussing then drawing up a formal agreement is vital in construction contracts. PHOTO; FILE

supplied by the contractor! The specifications too went without clarity and you would see items like doors pegged with a lump-sum amount of Sh200,000, electrical works Sh600,000 and tiles Sh1,000.

This would mean that you would not substantiate the quality and quantity of work done from what was pending. Further, the quotation had some scribbled terms of payment that read like this; 20 percent downpayment, 50 percent after two weeks and balance after two weeks.

How do we get out of this! Both parties were obviously aggrieved, but to measure the extent of the damages and manner of containing them, we needed more and fleshy references.

Needless to say, a conclusion was done that saw these two friends reach more of a compromise rather than the justifiable redress since the client would have easily gone Scot free. After all, the

customer is king and he is always right!

It is situations like these where contractual documents for the construction project will come in handy. The contract documents in a typical construction project will include and are not limited to drawings, specifications, bills of quantities, programme of works and terms of agreements.

The drawings will try as much as possible to illustrate the client's needs both visually and technically.

The bills of quantities will break down the drawings into the scope of works and relate it to monetary terms. The specifications will elaborate on the workmanship, quality and standard of materials to be used. The programme of works will express time wise how long the project will take.

Lastly, agreements will address the terms of the agreement and expectation by the various par-

ties as well as any legal recourse to take in the unlikely event disputes arise.

Bills of quantities

In the above case, things would have not gone out hand if the drawings had illustrated the similarities between the client's needs and the designer's proposal. Besides, the specifications would have spelt out the outcome clearly. And in this day and age, computer aided designs always come in handy to drive the point home.

The bills of quantities too would have enumerated the work to be done in terms of priced quantities.

Thus partial work done or erroneously work done would be easily identified.

So there you have it, be carefully when trading and make sure you are all covered!

The writer is a member of the Institute of Quantity Surveyors of Kenya.

PROPERTY PRICES UP

Waste water management systems in demand

David & Shirliff reports an uptake in the installation of residential recycling plants, as Nairobi's population, growing at some five per cent a year, moves to an expected six million by 2030, generating myriad challenges in waste management. Currently, residential waste accounts for 70 per cent of the waste generated in the city, according to Unep.

"Waste management poses a great challenge for the city as the increase in solid waste generation has not been accompanied by an equivalent increase in the capacity of the urban authorities to deal with the problem. Adoption of such alternatives as domestic water recycling will be great relief to strained sewer lines" said Mr. David Gatende, Deputy CEO Davis and Shirliff Group.

The company has been on the forefront in the supply of Dayliff waste water treatment and recycling plants, in the country and has so far sold over 30 units within Nairobi city alone.

"Using a recycling plant is environmental friendly and reduces dependency on failing urban authority sewer lines," said authorities from the Swedish Embassy, the latest institution to install the treatment and recycling plant, which has reduced its water needs from 5,000 to 2,000 litres daily

Recycling systems

at only half of its water requirements now come from the city council, for drinking and washing, while the recycling system caters for the 50 per cent of water required in toilet flushing and the irrigation of flower beds.

"The Dayliff system breaks down waste from toilets, showers, kitchen, and hand basins to a quality that can be recycled or otherwise sent down the storm water drain or back to the environment," said Joy Busolo, water manager at Davis and Shirliff.

Currently, Nairobi has a sewer network of some 163 km which covers just 25 per cent of the 700 square km area of the city. There are 178,099 connections to the existing network, which serves some 40 per cent of the city's population.

According to figures from Nairobi Water and Sewerage Company, the effluent in the sewer outlets has increased 30 per cent in the last decade, from 110,000 cubic metres a day, to now more than 140,000 cubic metres a day.

"Water recycling and treatment systems are the best alternative to failed sewer lines within residential and working areas," said Ms Busolo.

- CORRESPONDENT