

**Construction Claims Task Force
Recommendations Received from the Public**

DRAFT FOR DISCUSSION ONLY

KEY:

PUB = Public; 11/1/05 (AK = Karagiozis; DR = Ricketts; GT = Tsongas; JJ = Johnson; JL = Lamb); 12/2/05 (CCB; MJ = Jacobsen; RM = Miller; TR = Rippey); 1/25/06 (BCD; BG = Gillespie; BL = Lee; DA = Aldrich; JC = Carroll; JS = Stuart; RT = Thompson); 2/15/06 (AB = Beyer; TB = Bogart; GJ = Jones; PP = Peach; RR = Robinson; MT = Thompson; KW = Wright; WC = Corwin; KN = Nota

CATEGORY	RECOMMENDATIONS TO DATE ¹
<u>Design/Construction Practices</u>	
1) Building materials	<ul style="list-style-type: none"> A. Require manufacturers to provide material properties so they can be fed into computer models (AK) B. Identify durability and maintenance characteristics for different wall assemblies and materials given Oregon’s climate zones (AK, JC, RT) C. Develop a test facility to validate computer models and conduct Oregon-specific, building-science research (AK) D. Require manufacturer, material supplier, or building-envelope contractor (e.g., roofing, siding, windows, etc.) to certify that the material application and installation conform to code and manufacturers’ standards (CCB, RM) E. Restrict the use of certain building materials based upon Oregon-specific data, contractor’s insurance exclusions, and/or contractual limits on material substitutions (BG, BL, PUB)
2) Design	<ul style="list-style-type: none"> A. Develop minimum, building-envelope design standards including use of a drainage cavity (DR, MJ, GJ) B. Require greater design detailing on plans as well as mock-ups for sensitive or complex assemblies (BG, DR, JJ, MJ, PUB, RM, AB, TB, GJ, PP, RR, KN) C. Increase the amount of building overhangs (BG, DR) D. Involve building-envelope specialists in development

¹ This list of recommendations represents what industry experts, members of the public, and state agency staff have submitted to the task force. It does not necessarily reflect the opinion of individual task force members. The recommendations on this list have not yet been deliberated upon by the task force as a whole.

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	<p>process from design through occupancy (JL, MJ, TR)</p> <p>E. Require third party consultant or project architect to sign off on building envelope design (AB, GJ)</p> <p>F. Additional training and continuing education requirements for design professionals (GJ)</p>
3) Quality Assurance/ Quality Control	<p>A. Develop “best practices” and installation guidelines consistent with code and manufacturers’ instructions. (BCD, BG, DR, JC, JL, JJ, MJ, RT)</p> <p>B. Encourage field testing of in-place envelope assemblies (DR, JC, JJ, MJ)</p> <p>C. Encourage greater project documentation that demonstrates an “as built” condition. (JC, JJ, MJ, PUB)</p> <p>D. Increase oversight on the job-site by architect, engineer, building envelope specialist, or other certified supervisor to review construction practices (DR, GT, JL, MJ, RM, RT, TR, AB)</p> <p>E. Require third-party review of design, construction, and/or maintenance (MJ, PUB, RM, TR)</p> <p>F. Require a certified and trained supervisor to be present at the job site (KN)</p>
4) Training/education	<p>A. Provide training related to building-science and water-intrusion issues to designers, contractors, inspectors, and property managers (AK, BCD, DA, DR, JC, TR, KW, WC)</p> <p>B. Require continuing education for contractors (BG, DR, JJ, MJ, PUB, RM, TR, PUB)</p> <p>C. Require additional business-competency education for contractors (CCB, AB, TB, KW)</p> <p>D. Develop standards for contractors to properly train and certify employees (KW, WC)</p>

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	E. Utilize outside groups and manufacturers to provide training and certification; many groups offer such programs (PUB)
<u>Regulatory Environment</u>	
5) Building codes	A. Explore rainscreen technology as a construction approach. (BCD, DR, DA, GT, MJ) B. Require additional mechanical venting of moisture from interior spaces (e.g., bathrooms and kitchens). (BCD, BG, GT, PUB) C. Require moisture content not exceed a defined level before closing the cavity. (BCD, GT, PUB, RM, PUB) D. Adopt code changes related to type of flashing used (GT) E. Adopt code changes related to concrete and slab-on-grade including proper venting (GT, PUB, RM) F. Adopt earthquake base model code without amendment (PUB)
6) Consumer education	A. Provide consumer education to apartment occupants regarding mold (GT, PUB) B. Provide consumer education to owners and homeowner association boards regarding maintenance plan and maintenance issues (DR, JC, MJ, PP) C. Require documentation of proper maintenance in order to make defect claim (AB)
7) Insurance/bonding	A. Increase bond amount or institute a stratified bond amount based on work volume (CCB, JS, PUB, AB, TB) B. Require performance bonds when a contractor has a history of claims (BL, PUB) C. Create a separate CCB registration process for

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	<p>subcontractors that would remove the requirement for subcontractors to obtain insurance² (PUB)</p> <p>D. Clarify Oregon’s “additional named insured” issue (AB)</p> <p>E. Contractors with a history of violations must provide performance bonds (PUB)</p>
8) Licensing	<p>A. Create a specialized license for building-envelope contractors (e.g. roofing, siding, windows, etc.) to include required training, experience, and/or demonstration of competency (GT, JJ, TB, PUB)</p> <p>B. License/register building envelope specialists (JL, MJ)</p> <p>C. Mandate additional licensing requirements for contractors (e.g., documented experience, proof of code proficiency, construction practices training, continuing education) (BL, JJ, JS, PUB, AB, GJ)</p> <p>D. Increase CCB’s enforcement powers including terminating a contractor’s license if they have a history of problems (JS, PUB)</p> <p>E. Require contractors to submit a list of employees to the CCB including any employee’s previous CCB license number (PUB)</p> <p>F. Prevent problem contractors from obtaining a license under a new corporate identity (JS)</p> <p>G. Certify or license the individual tradespersons performing the work; could be performed by contractors (RR, MT, KW, PUB)</p>
9) Permits/inspections	<p>A. Review building penetration details and building envelope technology during plan-review process (JJ, MJ, RM, AB, GJ)</p>

² In this scenario, all subcontractors would perform work under contract subject to the general contractor’s insurance.

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	<ul style="list-style-type: none">B. Additional inspection of envelope systems during construction to ensure compliance with design specifications, including and with focus on building envelope (BG, DA, GT, JL, TB, GJ, PP)C. Require inspectors to cite code-violations that were overlooked during previous inspection(s) or where the work has subsequently been altered (PUB)D. Require the contractor doing the work to take out the permit (as opposed to the homeowner) (BCD, PUB)E. Require a “Certificate of Occupancy” for residential construction (BCD)F. Require some jurisdictions to submit verification, such as field notes, to prove inspection was performed (PUB)
10) Regulatory framework	<ul style="list-style-type: none">A. Mandate minimum contract provisions including required disclosure of pertinent information (CCB, MJ, PUB)B. Improve state oversight of local jurisdictions including a state appeals process and audits of inspection practices (BL, PUB)C. Eliminate supplier/subcontractor’s ability to place a lien against homeowner’s property for general contractor’s failure to pay (PUB)D. Allow complainants to collect attorney fees if their claim prevails (PUB)E. Increase public representation and/or oversight on BCD and CCB boards and panels (PUB)F. Encourage the Governor to appoint a special ombudsman to investigate the CCB (JS)G. Mandate use of contract terms that make general contractors legally responsible for the work of their subcontractors (JS)H. Prosecute the most egregious contractors in criminal court (BL, JS, PUB)

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CATEGORY	RECOMMENDATIONS TO DATE¹
	<ul style="list-style-type: none">I. Align the statutes of repose for contractors and architects, both should be the same (AB)J. Increased fines levied against builders found in violation of codes (PUB)K. Reorganize BCD and CCB in order in order to ensure responsiveness to consumers (PUB)L. Institute a “Lemon Law” concept applicable to defects in homebuilding (PUB)M. Restrict right to work for contractors with a history of violations (PUB)N. Increase period in which individual can bring a claim against a contractor by up to 5 years (PUB)O. Prohibit practice of limiting contractor liability to amount quoted (PUB)P. Require contractors to provide a list of employees and all licenses the employees have held; make information available to public (PUB)
<u>Dispute Resolution</u>	
11) Arbitration/mediation	<ul style="list-style-type: none">A. Streamline the dispute resolution process to encourage more timely, responsive, and lower-cost settlements (JC)B. Develop a “fix it first” approach that involves all parties (must go beyond current “right to cure”) (AB)C. Adopt a system similar to the Arizona model (WC)
12) Complaint process	<ul style="list-style-type: none">A. Improve public’s ability to review a contractor’s complaint history (PUB)B. Extend or remove timelines for filing a complaint with the CCB (PUB)C. Establish a recovery fund (CCB, PP)

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<u>Post-Construction</u>	
13) Maintenance	A. Develop standardized maintenance schedule (CCB, DR, JC, JJ, MJ, RM, RT, AB, GJ) B. Prioritize maintenance plan tasks and develop a standardized log to maintain and organize maintenance plan records (JC, GJ) C. Establish adequate maintenance reserves (AB, GJ) D. Require HOAs to perform annual inspections (GJ) E. Use technology to find best methods to discover and solve building defects (PUB) F. Building integrity management should be adopted as a method to ensure proper building and maintenance (PUB)
14) Warranties	A. Create a mandatory warranty program (DR, MJ)