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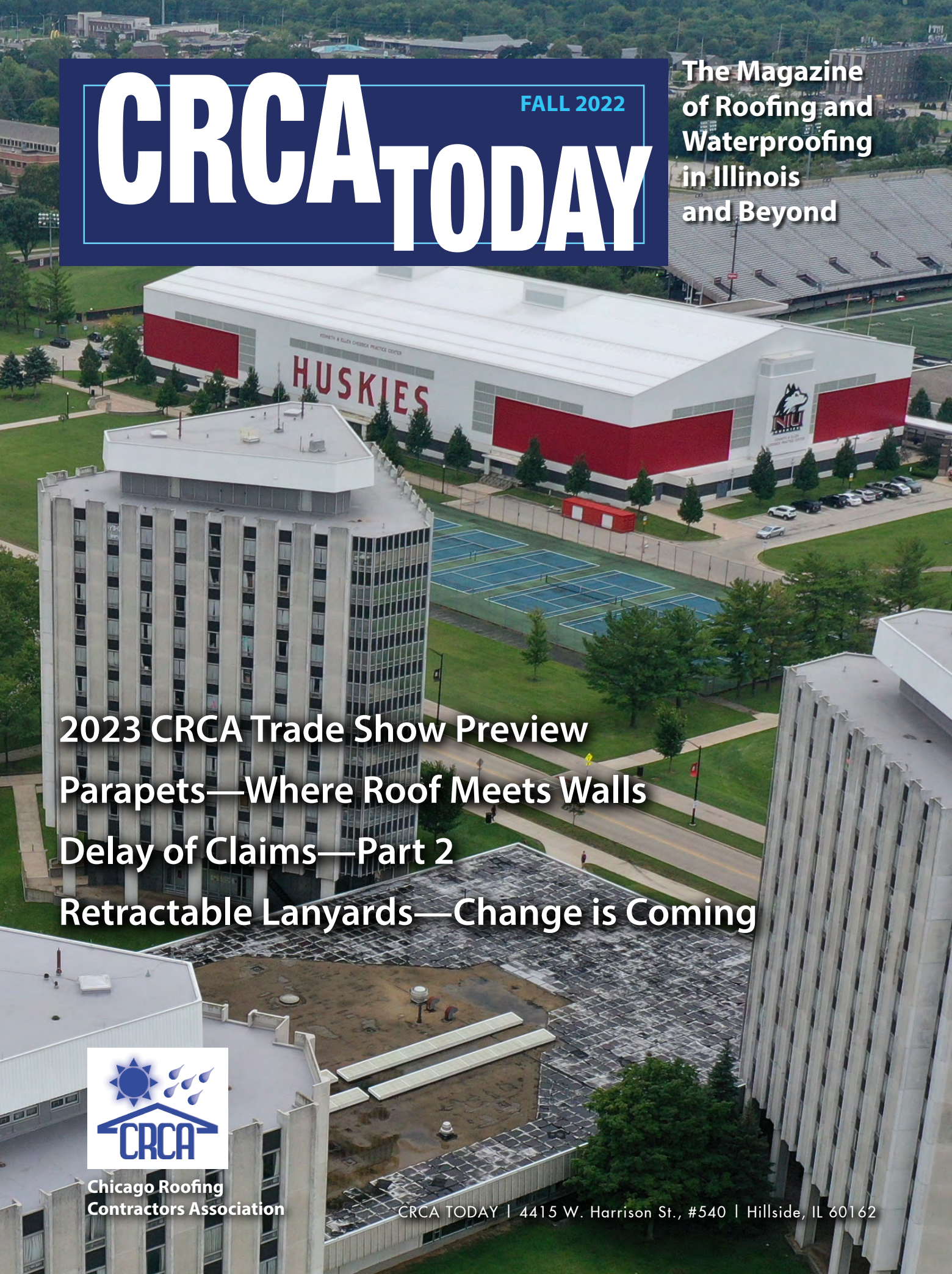

2023 CRCA Trade Show Preview

Parapets—Where Roof Meets Walls

Delay of Claims—Part 2

Retractable Lanyards—Change is Coming

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Fall Protection Retractable Lanyards . . . *Changes Are Coming . . .*

By Frank J. Marino, CSP

Frank J. Marino, CSP

Personal Fall Arrest Systems (PFAS) continue to play an increased role as a fall protection option in the roofing industry. The use of retractable lanyards is also on the rise for roofers. As this equipment can be an effective tool to protect workers for fall exposures, it is just as important that all contractors and workers understand the limitations of this equipment when putting it in to use. As complicated as retractable lanyard limitations and use restrictions have been in the past, things are about to get a little more complicated.

On June 17, 2021, the American National Standard for the Safety Requirements for Self-Retracting Devices (SRDs) was approved with an effective date of August 01, 2022 *(revised to February 01, 2023)*. After this date, manufacturers will be required to conform to this latest revision of the ANSI/ASSP Z359.14 standard document. The requirements of this revised standard supersede any corresponding requirements in ANSI/ASSP Z359.14-2014, ANSI/ASSP Z359.1, ANSI/ASSP Z359.3 and ANSI/ASSP Z359.4 American National Standards.

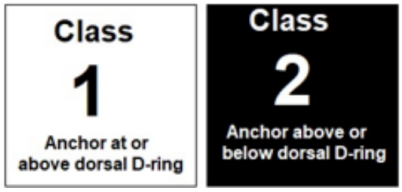
(3M,2022)

The following is an overview of the notable changes between the 2014 and the new 2021 revisions within ANSI/ASSP Z359.14 standard:

- New: ANSI/ASSP Z359.14 test mass has increased to 310 pounds (140kg) Previous Revision: 282 pounds (128kg).
- Updated: SRL categories have been designated a. SRL b. SRL-P (New) for Personal SRL c. SRL-R (Carry over from previous revision) d. SRL-LE has been removed and will now be designated under Class 2
- Updated: SRD Classifications revised

a. Class 1 SRD–For use with anchorages AT or ABOVE the dorsal D-ring. Maximum allowable freefall not to exceed 2 feet

b. Class 2 SRD–For use with anchorages ABOVE or BELOW the dorsal D-ring. Maximum allowable freefall not to exceed 6 feet (1.8m)

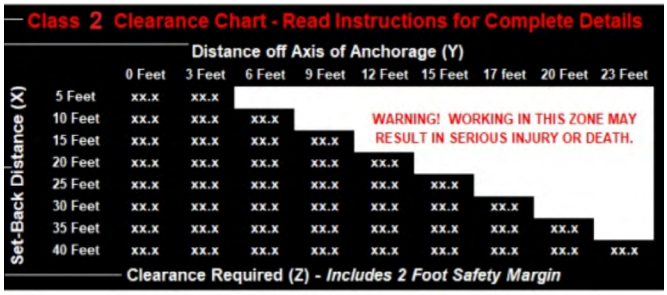


Class Designation Icons

Previous Revision: 2014 revision designated Class A and B devices.

(3M,2022)

- Updated: Webbing and Synthetic Rope used in Class 2 devices must now have a minimum tensile breaking strength of 5,000 pounds (22.2kN). Previous Revision: 2014 revision this was 4,500 pounds (20kN).
- New: Class 2 devices are now required to have an integral energy absorber on the lifeline. This energy absorber must meet all of the ANSI/ASSP Z359.14 testing requirements or independently meet the ANSI/ASSP Z359.13 requirements. For SRL-P devices where the device attaches to the users dorsal D-Ring instead of the anchorage, no energy absorber is required on the lifeline. The SRD must provide some means to dissipate the arresting forces.



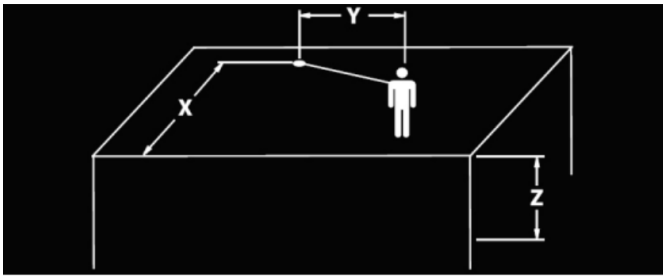
Class 2 Clearance Chart - Read Instructions for Complete Details

Set-Back Distance (X)	Distance off Axis of Anchorage (Y): 0 Feet	3 Feet	6 Feet	9 Feet	12 Feet	15 Feet	17 feet	20 Feet	23 Feet
5 Feet	xx.x	xx.x							
10 Feet	xx.x	xx.x	xx.x						
15 Feet	xx.x	xx.x	xx.x	xx.x					
20 Feet	xx.x	xx.x	xx.x	xx.x	xx.x				
25 Feet	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x			
30 Feet	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x		
35 Feet	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x	
40 Feet	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x	xx.x

WARNING! WORKING IN THIS ZONE MAY RESULT IN SERIOUS INJURY OR DEATH.

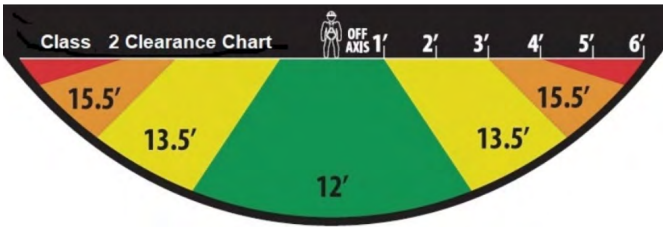
Clearance Required (Z) - *Includes 2 Foot Safety Margin*

CLASS 2 Integral Clearance Chart Example



CLASS 2 Illustration of Axes Example

- Updated: Static Strength Test–All SRDs must be capable of withstanding a 3,600 pound (16kN) static load for one minute with the lifeline constituent fully extracted. Previous Revision: 2014 revision was a 3,000 pound (13.3kN) static test.
- New: SRDs that do not incorporate an internal braking system must hold a minimum 1,800 pound (8kN) static load while the brake pawls or other brake activation system is engaged and locked with at least 75% of the lifeline constituent remaining on the drum assembly.
- New: SRL-P devices with twin or dual legs must hold a 3,600-pound (16kN) load applied from leg to leg.
- New: SRL-P devices designed to wrap around an anchorage or tie back onto themselves must hold a load of 3,600 pounds (16kN) applied after completion of 2,500 cycles of abrasion testing with the lifeline constituent wrapped around a testing I-beam fixture.
- New: SRL-P and Class 2 devices DO NOT need to retract after the overhead dynamic performance tests.
- New: Class 2 SRL-P devices shall include a clearance requirement label



- Updated: During ambient dynamic performance testing utilizing a 310-pound (140kg) test mass, the average arresting force (AAF) allowed has been increased from 900 (4kN) to 1350 (6kN) pounds and the arrest distance (AD) has been shortened to 42 inches (1,067mm). For the conditioning tests, AAF remains at 1575 pounds (7kN), but the AD is now 42 inches (1,067mm). Previous Revision: Both ADs are down from 54 inches (1,372mm) with conditioning temperatures and times remaining same as previous.
- New: SRL-P devices must pass a dynamic performance test with a 310-pound (140kg) weight and a 6 foot (1.8m) free fall and keep the MAF at 1800 pounds (8kN) or less. (lifeline does not get pinned or restrained to prevent retraction).
- New: Class 2 SRD must pass a dynamic test over an edge with a 310 (140kg) pound weight and the AAF must not exceed 1350 pounds (6kN) and MAF not exceed 1800 pounds (8kN) ambient and AAF 1575 pounds (7kN) conditioned.
- New: SRL-R function tests are the same but static testing when in retrieval mode is now 3600 pounds (16kN).
- New: SRLs with internal brakes must pass a test with the lifeline shortened to 42 inches (1,067mm), then have 36 inches (914mm) +/- 1.0-inch (25mm) clipped out, then have a 310-pound (140kg) weight free falling 2 feet (.6m) and must maintain MAF at 1800 pounds (8kN) or less.
- Updated: SRL-P and Class 2 devices can only have up to 48 inches (1,219mm) of line outside the SRL housing when fully retracted. Previous Revision: 60 inches (1.5m).
- New: Warning card is required to be provided as a separate card insert with each SRD

WARNING: This Class 2 self-retracting device, when attached to a foot-level anchorage, poses significant risk of injury. The user, the competent person and/or qualified person should all acknowledge that normal use of this device MAY NOT PREVENT A SERIOUS INJURY.

Failure to follow all manufacturer's instructions and warnings may result in serious injury or death.

(3M,2022)

Making sure you have the right fall protection equipment for the task at hand is a vital component to any fall protection plan. Revisions to existing ANSI standards, like the one listed above, adds to the due diligence required for creating effective and accurate fall protection plan. For further information regarding these revisions, please reach out to the CRCA Safety Committee.

References:

- https://multimedia.3m.com/mws/media/2093504O/3m-ansi-assp-z359-14-2021-standards-update-summary.pdf

Frank Marino is Vice President at Safety Check Inc., a safety consulting firm in the Chicago area and CRCA Associate Member. Marino has extensive experience in roofing safety and is a co-chair of the CRCA Health and Safety Committee. He is a member of the Occupational Environmental Safety & Health Advisory Board at the University of Wisconsin, working with faculty and safety professionals on curriculum development and industry updates. He can be reached at fmarino@safetycheckinc.com.

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Parapets—Where Roofs Meet Walls

By Joe Lstiburek

Joe Lstiburek

Historically there have been so many problems with parapets that we have a name for it: "*parapetitus*". They have a long history–which of course is not always clear–which allows me to embellish without threat of peer review reversal[1]. Their major function today, aside from confusing architects, is to protect the edge of roof assemblies from wind uplift forces. Not so in the old days where they were useful in fire protection.

When wind blows against a building it produces vortices at the roof edges (Figure 1) that create huge pressure differences (Figure 2) at roof perimeters that can suck roofs off buildings. Parapets dramatically reduce these pressure differences at roof edges (Figure 3). Neat eh? All this from a University of Toronto guy, go Varsity Blues (Leutheusser, H. J., 1964)[2]

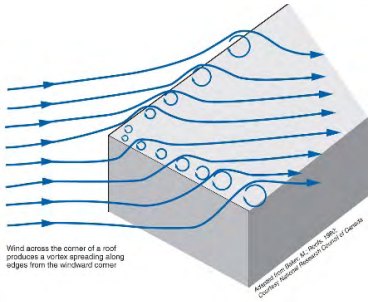


Figure 1—Roof Edge Wind Effects: When wind blows against a building it produces vortices at the roof edges.

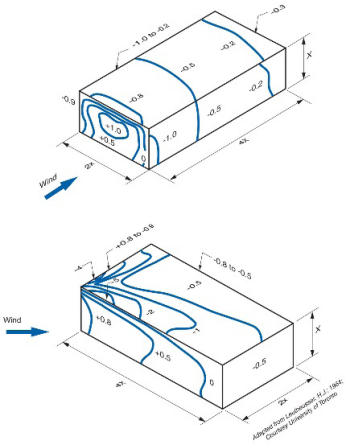


Figure 2—Pressure Differences: Notice the large pressures at roof perimeters. From Leutheusse[2] and the Department of Mechanical Engineering, University of Toronto, 1964. Some of us recall that 1964 was a good year—the Toronto Maple Leafs won the Stanley Cup. Tim Horton played defense on that team, long before he got into the donut business.

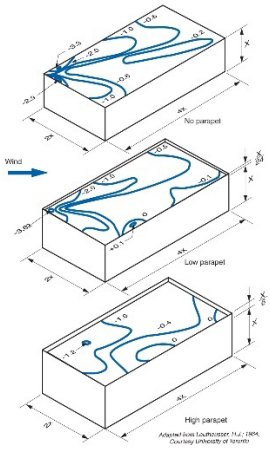
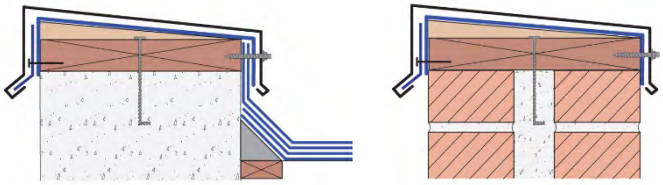


Figure 3—Effect of Parapets on Pressure Differences: Parapets dramatically reduce these pressure differences at roof edges. This is from a beautiful bit of work from Leutheusser at my alma matter the University of Toronto. Of course, this happened in 1964, more than a decade before I got there. I am old, but not that old.

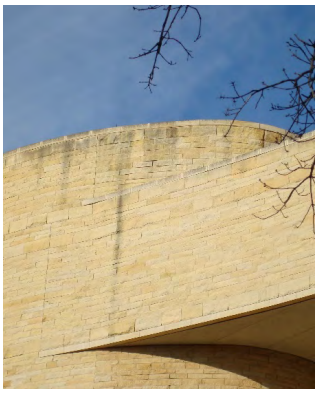
The easiest thing to get right about parapet construction is to keep rainwater from getting into the top of them. The principles are easy. Slope the top of them inward so they don't stain the building façade. Make sure that there is a waterproof membrane under the coping. Always. Metal and stone copings leak at joints. And always have drip edges–front and back–so that they don't stain the building facade. Did I mention the staining of the building façade? Check out Figure 4 and Photograph 1 to see it done right. If you want to get depressed, look at Photograph 2.



Adapted from Baker, M.; Roofs, 1980;
Courtesy National Research Council of Canada

Figure 4—Parapet Water Management: Keep rainwater from getting into the top of them. Slope the top of them inward so they don't stain the building façade. Make sure that there is a waterproof membrane under the coping. And always have drip edges–front and back–so that they don't stain the building facade.

Photograph 1—Excellent Water Management: Notice the membrane under the coping. Notice the slope to the interior. And, notice the drip edges.



Photograph 2—Stains at Parapet: No drip edges. A beautiful building is becoming ugly.

Are we done yet? Nope, not by a long shot. Now it gets weird, not the physics, but why so many buildings get the physics wrong. For the physics we go to another one of those legendary old guys who got it right and made it simple for the rest of us to understand–Max Baker. Check out Figure 5, adapted from his book "Roofs". Connect the water control element/layer of the roof to the wall, the air control element/layer of the roof to the wall, the vapor control element/layer of the roof to the wall and finally the thermal control element/layer of the roof to the wall. Sound familiar? Coming from me it should by now[2]. I call them the "Baker Principles".

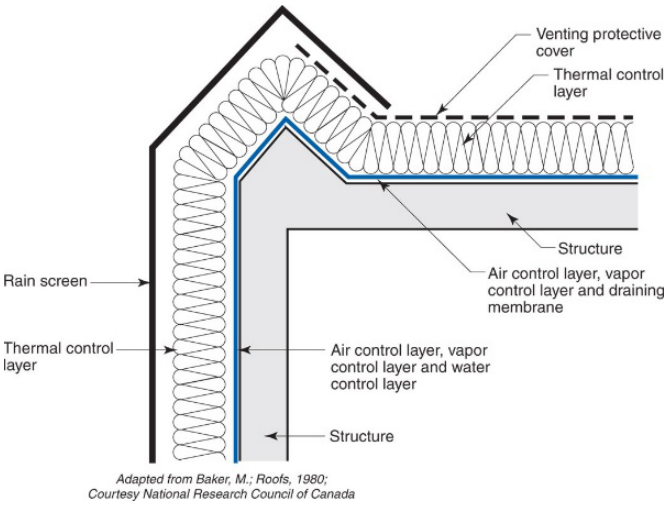


Figure 5—Parapet Physics: The "Baker Principles". Adapted from the master, Max Baker.[1] Adapted how? I just updated the words, just the words, not the principles. Everyone relax. This is probably the most influential graphic in my building science education. When I first saw it the light bulb went off. Continuity of the control layers between roofs and walls is the whole enchilada.

This is what we typically get in the "real world" today (Figure 6). What a mess. No continuity of the four principle control layers:

- Water control layer—no membrane under the parapet flashing
- Air control layer—no air control in either the roof assembly or the wall assembly
- Vapor control layer—same goes for the vapor control layer
- Thermal control layer—thermal bridging everywhere

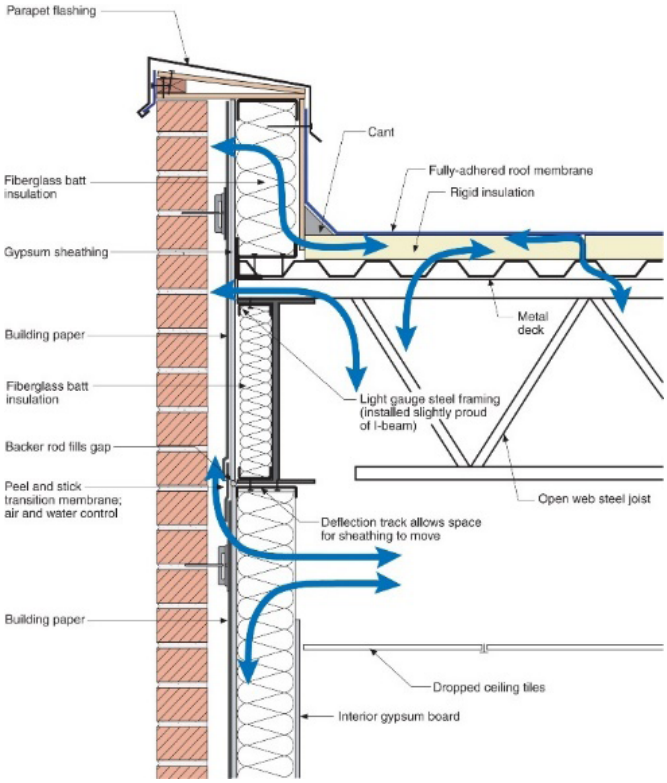


Figure 6—Problem Parapet: This is what I see on a regular basis. Everything is wrong. Air leakage into and out of everything and everywhere. No membrane under the parapet flashing. No air control in either the roof assembly or the wall assembly. No vapor control layer and thermal bridging everywhere.

And to make matters worse, structurally we also tend to have some issues. Ah, but not in the way you think. Think about the thermal stress a roof membrane goes through (Figure 7 and Figure 8). The key is to transfer these stresses to the roof deck. In the old days, it was easy, just fully adhere the roof membrane with a lot of goop directly to the structural deck so that each square foot of roof membrane stress was directly transferred to the square foot of structural deck directly under the membrane. No problem. Until, wait for it, some lunatic person introduced thermal insulation. Now we had to transfer the stress of the membrane through sometimes multiple layers of insulation before it got to the structural deck (Figure 9). If you didn't get it right, you concentrated the stresses at roof edges and you could suck in a parapet (Figure 10) or tear or rip a membrane at the parapet (Photograph 3 and Photograph 4).

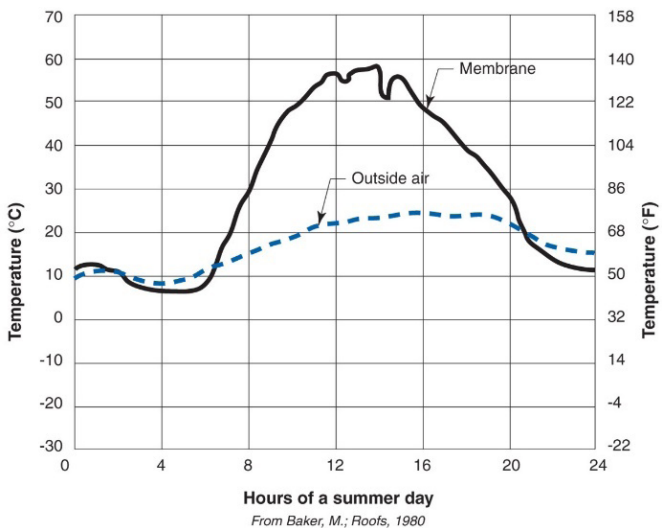


Figure 7—Roof Membrane Temperatures: Ottawa, Canada, summer day. Courtesy of Max Baker and the National Research Council of Canada.[1]

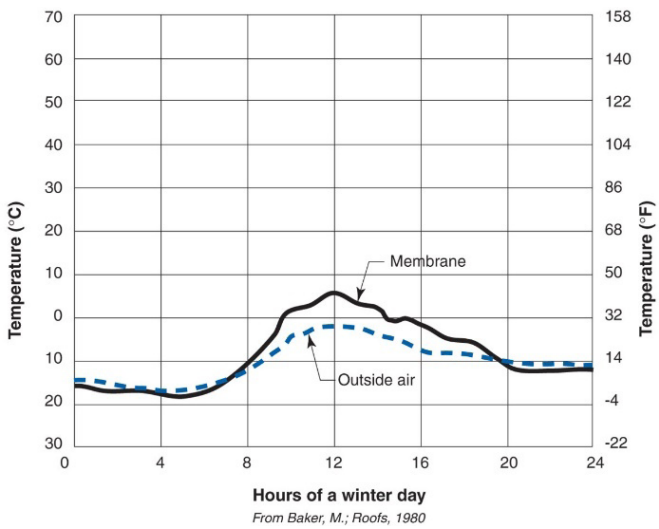


Figure 8—Roof Membrane Temperatures: Ottawa, Canada, winter day. Courtesy of Max Baker and the National Research Council of Canada.

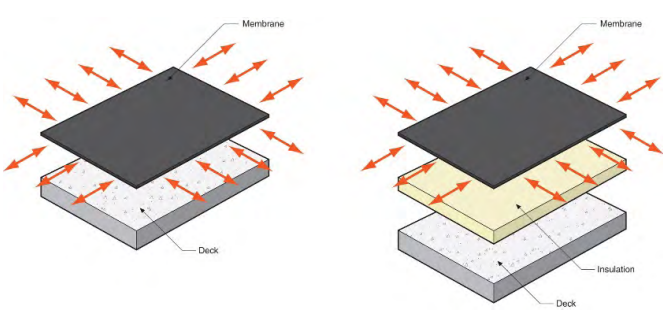


Figure 9—Transferring the Thermal Stress: Easy to do when the membrane is adhered directly to the structure. Not so easy when you have insulation, or worse, multiple layers of insulation between the membrane and the structure.

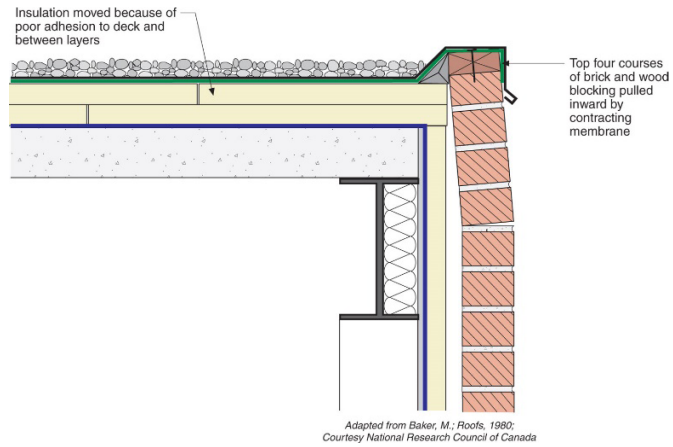


Figure 10—Collapsed Parapet: A parapet having a bad day.

Photograph 3—Membrane Shrinkage: Notice the roofing membrane being pulled away from the cant strip.

Photograph 4—Tear in Membrane: Membrane shrinkage results in the membrane pulling apart.

Transferring loads in multi-layer compact roofs is quite controversial. There are lots of opinions and I want to point out right from the start, that only I am right. Let's start out in the field of the roof. This is how a compact roof should be constructed if I was in charge (Figure11). There should be a continuous fully adhered air control layer supported by gypsum sheathing on the top of a metal deck[3]. The gypsum sheathing is screwed to the metal deck. There should be a whole bunch of rigid thermal insulation on the top of this air control layer—in two layers at least with the joints off-set horizontally and vertically[4]. This insulation should be screwed down to the metal deck. Then on top of the rigid thermal insulation there should be a coverboard. This coverboard is also screwed down to the metal deck. Finally, a roof membrane is fully adhered to the coverboard.

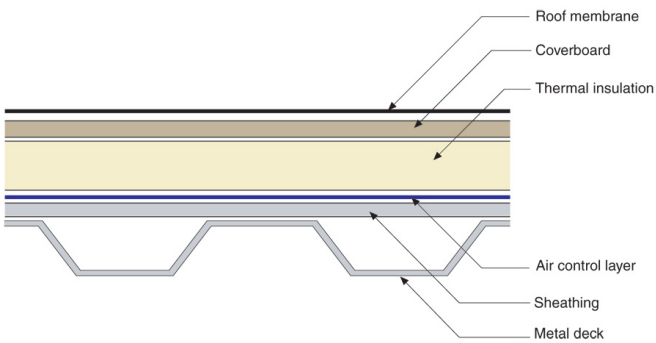


Figure 11—Perfect Compact Roof: The roof I would build if I was in charge. A continuous fully adhered air control layer supported by gypsum sheathing on the top of a metal deck. The gypsum sheathing is screwed to the metal deck. Rigid thermal insulation on the top of this air control layer–in two layers at least with the joints off-set horizontally and vertically. This insulation should be screwed down to the metal deck. Then on top of the rigid thermal insulation there should be a coverboard. This coverboard is also screwed down to the metal deck. Finally, a roof membrane is fully adhered to the coverboard.

The function of the coverboard is two-fold. First, it is a hygric buffer that reduces roof membrane blistering. A discussion of this has to wait for some other time. Second, and most important to our story, is that its function is to transfer the stresses of the primary roof membrane to the metal deck. Stresses from the roof membrane are transferred to the coverboard and the coverboard does the heavy lifting and handles these stresses finally getting them down to the metal deck.

Next, we have to deal with the potential for concentrated roof stresses at parapets. Figure 12a shows how the "old timers" did it–wood blocking and a cant anchored to the structural deck. Figure 12b shows how the "new pups" do it–a large backer rod supporting a bunch of extra membrane that lets things move when they have to move. As much as it pains this "old timer" to say this, with the newer more dimensionally stable membranes the "new pups" have it more right.

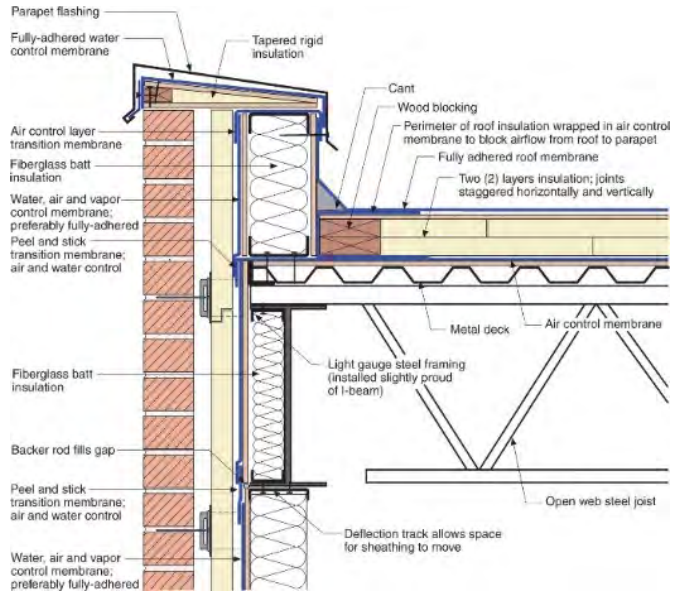


Figure 12a—Steel Stud Parapet "Old Timer":–Wood blocking and a cant anchored to the structural deck restrains membrane shrinkage at parapet. Notice the continuity of the control layers.

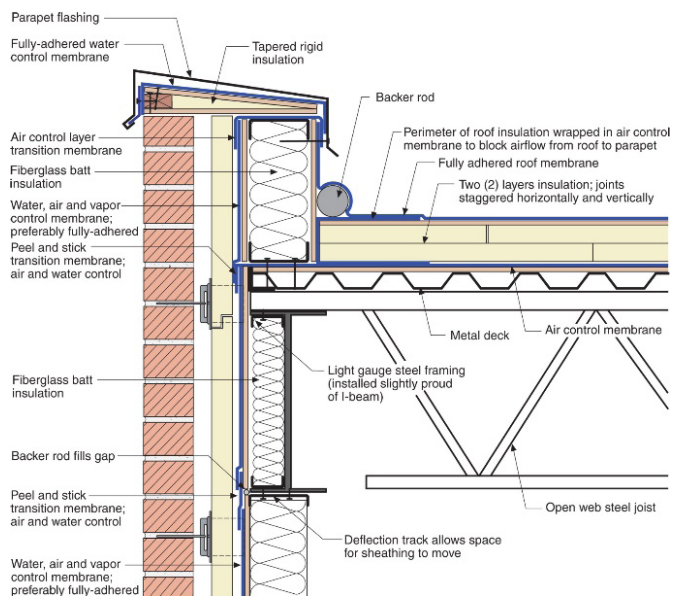


Figure 12b—Steel Stud Parapet "New Pups": Large backer rod supporting a bunch of extra membrane that lets things move when they have to move. The "Zen" approach to membrane movement. Use a more dimensionally stable membrane and then let things move when they have to. Again, notice the continuity of the control layers.

Now on to the continuity stuff. All we have to do is apply the Baker Principles (See Figure 5) to typical roofs and walls. To that end, with the help of my colleagues at the Skunk Works at Building Science Corporation, I have drawn up a few of the more common parapet constructions following the "Baker Principles": the already discussed Steel Stud Parapet (Figure 12b), the Masonry Parapet (Figure 13), the Balloon Framed Steel Stud Parapet (Figure 14) and finally the Cantilevered Mini Parapet (Figure 15).

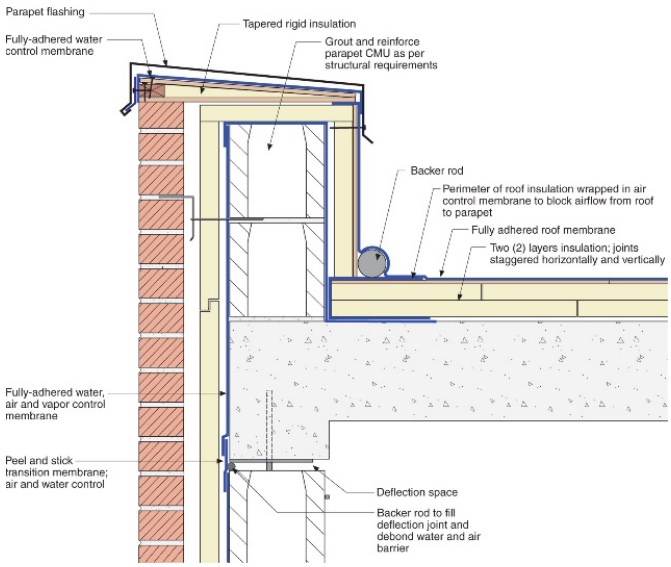


Figure 13—The Masonry Parapet: The thing to note here is that the concrete deck itself is the air control layer and so an additional one is not necessary. However, joints in the concrete deck need to be addressed for air control layer continuity.

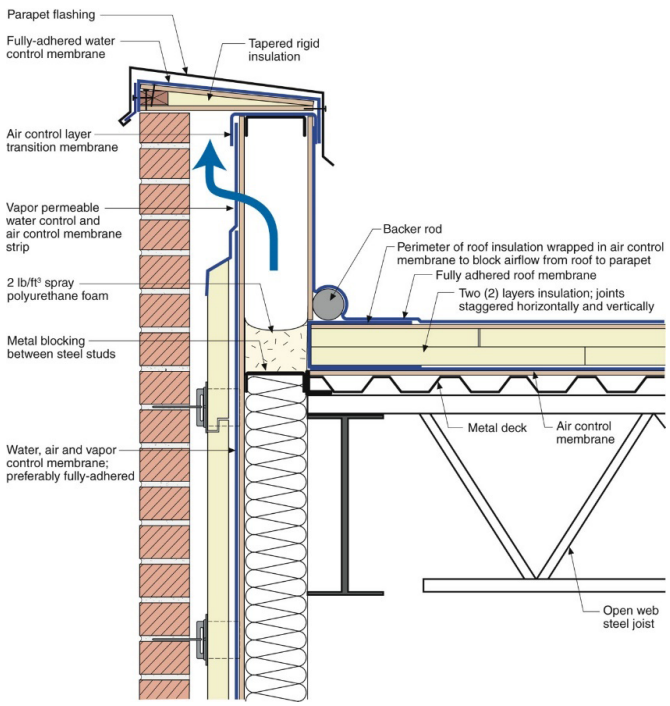


Figure 14—The Balloon Framed Steel Stud Parapet: This is the ugliest parapet to get right. Notice the use of spray polyurethane foam, the high density stuff, to provide air control layer continuity across the balloon framed exterior steel stud wall. The spray foam is supported by horizontal bridging or metal blocking. This is a tricky thing to execute and as such we design into the upper parapet assembly a pathway for drying via vapor diffusion to provide some performance redundancy.

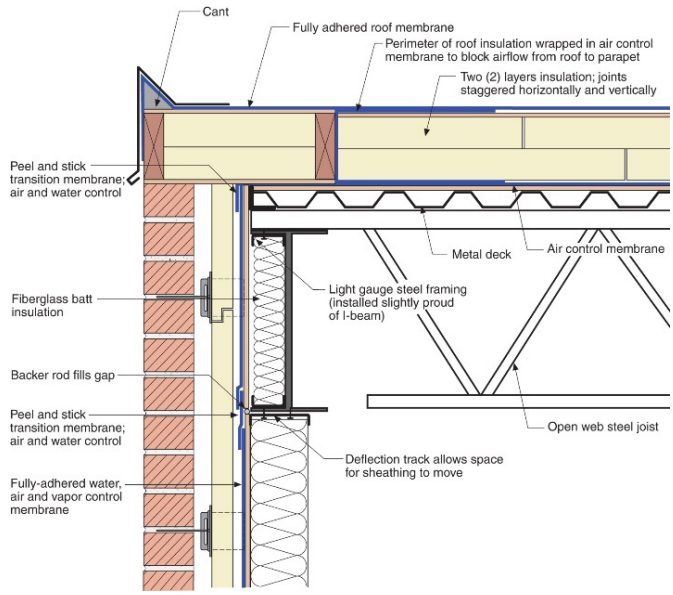


Figure 15—The Cantilevered Mini Parapet: Notice that air control layer continuity is achieved by wrapping the membrane over the building corner and then constructing the cantilevered portion of the parapet over the top of this air seal.

All of the "good" series of parapet details presented follow the "Baker Principles" and a little bit of other stuff (See Figure 12a, Figure 12b, Figure 13, Figure 14, and Figure 15):

- Water control layer continuity–membranes continuous under the parapet flashing
- Air control layer continuity–an air control layer in the roof assembly is connected to the air control layer in the wall assembly
- Vapor control layer continuity–a vapor control layer in the roof assembly is connected to the vapor control layer in the wall assembly
- Thermal control layer continuity–the thermal control layer of the roof assembly is connected to an effective thermal control layer in the wall assembly. The thermal control layer in the wall assembly is exterior to the structure–just as in the roof assembly.
- The roof membrane is fully adhered to a coverboard that is mechanically attached to the structural deck in the field of the roof and an allowance for membrane movement is provided at the perimeter of the roof assembly.

The perimeter of the roof assembly insulation is wrapped to prevent interstitial airflow from the parapet into the multilayered rigid insulation of the field of the roof.

The cure for *"parapetitus"* is continuity of the control layers and letting things move when they have to move. Max Baker and Stonewall Jackson would be proud.

Footnotes:

1. The Italians have claim to the word: "parapetto" comes from "parare" which means "to defend" and "petto" which means "breast". The military calls "parapet fortifications"–defensive stonewalls - "breastwork". The dictionary meaning of "breasted" means "to confront boldly". So, low stonewalls historically, are called parapets and are military in origin. "Stonewall Jackson" was also called "Parapet Jackson"–ok, so that's not true, but with the way textbooks seem to be written today I bet I could get away with it if I decided to write one. So how did they come to be located on the edge of roofs? Ah, we can thank the English for that. In the old days, London tended to keep burning down and that tended to irritate the folks who lived in London so projecting wooden eaves were banned in the Building Act of 1707 as a fire risk. Instead, an 18-inch brick or stone parapet was required, with the roof set behind, as fire protection (http://en.wikipedia.org/wiki/Parapet).

2. Check out "BSI-001: The Perfect Wall": http://www.buildingscience.com/documents/insights/bsi-001-the-perfect-wall?topic=doctypes/insights It was my first column for ASHRAE and it was inspired by Max Baker's marvelous book: Roofs[1], 1980, Montreal: Polyscience Publications. The book, now out of print, was sponsored by the National Research Council of Canada and it brought together information into one document from Canadian Building Science Digests, Research Papers and Building Science Seminars and Workshops from the Division of Building Research. Much of this information is online and folks should go visit: http://www.nrc-cnrc.gc.ca/eng/ibp/irc/publications/index.html. Awesome.

3. For a more interesting discussion about the need for air barriers in compact roof assemblies check out "Uplifting Moments-Roof Failures" at http://www.buildingscience.com/documents/insights/bsi-019-uplifting-moments-roof-failures?topic=doctypes/insights

4. To more fully appreciate the need to offset the rigid insulation joints horizontally and vertically and to wrap the perimeter of the roof assembly insulation check out "Complex 3D Airflow Networks" or http://www.buildingscience.com/documents/insights/bsi-036-complex-three-dimensional-air-flow-networks?topic=doctypes/insights

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1. Baker, M.C., Roofs, ISBN 0-921317-03-4, Polyscience Publications, Montreal, Quebec, 1980

2. Leutheusser, H. J., The Effects of Wall Parapets on the Roof Pressure-Coefficients of Block-Type and Cylindrical Structures, University of Toronto, Department of Mechanical Engineering, TP 6404, April, 1964

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Delay Claims, Part 2: Types of Damages and How to Calculate Them

By Trent Cotney

Trent Cotney

When you experience a project delay, you likely are worried about the schedule and budget—and rightly so. Delays can wreak havoc on a project, and they can affect your bottom line. Once you have determined the delay type (excusable or not and compensable or not), you and the other parties involved can look at damages. Courts will review the case from several angles.

Proving Delay Damages

Damage awards are serious. They impact owners and contractors, so they should not be based on guesses or speculation. If your case goes to court, judges will access the time and total costs involved. To be successful, you will need detailed records regarding the delay and its impact. You will probably also require expert testimony to prove your eligibility for damages.

Types of Delay Damages

When you experience a delay, you may face many types of damages. So it is essential that you track your lost productivity and the costs you are incurring.

- *Labor Costs*: Nearly every delay results in higher labor costs. You may have to work under revised conditions or out of sequence. You may also face labor shortages if the delay stretches on. In addition, scheduling subcontractors could become problematic, leading to more delays. Extended or additional labor costs affect nearly every party connected to the project delay. But be careful not to think that all additional labor costs are caused by the delay. The damages can address only those definitively impacted by the delay.
- *Loss of Efficiency and Productivity:* If a delay affects your productivity or efficiency, you may be able to recover damages. However, you will need to prove those losses. You must show the elements of causation and liability and/or demonstrate that the delays caused times of disruptions and inefficiencies.
- *Material and Equipment Costs*: When delays occur, you may lose the chance to use equipment you have rented, or you may be unable to rent equipment to others. These losses are compensable as long as they can be proved.
- *Direct and Indirect Overhead:* During a delay, you may find it impossible to obtain other contracts. Those other contracts could absorb some of your ongoing overhead costs. So if you can prove the loss of new contracts, you may be able to recover damages of unabsorbed overhead.

Methods for Calculating Damages

There are several approaches for calculating delay damages.

- *Measured Mile Analysis:* This method compares actual labor costs or labor productivity during different time periods: 1) when the work was not affected by the delay and 2) when the work was affected by the delay. This analysis can pinpoint lost productivity and isolate it from other factors beyond the delay period. This damage calculation method is preferred and considered the most reliable.
- *Total Cost Method:* This method uses basic math. The contractor's bid estimate is subtracted from the total costs incurred during a project. The difference between those two numbers represents a cost caused by the delay and can be attributed to the defendant's breach. This method is usually applied under extraordinary circumstances.
- *Modified Total Cost Method:* This method is usually allowed only when other means of proving damages are considered impossible. If, as a contractor, you are using this method, you will need to show that your estimate was reasonable, the total costs are reasonable, and you were not responsible for the additional costs, but it is impractical for you to accurately determine the nature of the specific losses. After analyzing the situation, the court may subtract

your bid from the total project cost but then make adjustments due to bid miscalculations, any part you played in the delay, and/or your inability to identify the nature of the losses.

Final Thoughts

For every project you successfully bid, be sure to read your contracts carefully and understand the conditions. Track all your expenses related to labor, equipment, and materials, and document how any delays impact those expenses. With increased material lead times causing delays on almost every project, a roofing contractor should seek time extensions for even minor delays caused by weather or other causes outside the contractor's control.

You will probably experience delays more often than you would like, but it is essential that you are prepared for them. If you face delay-related problems, make sure you assess your situation, identify your losses, and help determine the best strategies for seeking damages.

The information contained in this article is for general educational information only. This information does not constitute legal advice, is not intended to constitute legal advice, nor should it be relied upon as legal advice for your specific factual pattern or situation.

Editor's Note: To read the first article in this series, Visit https://crca.org/Resources/CRCA-Today-Magazine

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As CRCA President, I invite you to be active in our industry by joining CRCA as a member and volunteering for a CRCA committee. I look forward to seeing you in January.

Mitch Rabin, A-1 Roofing Co.,
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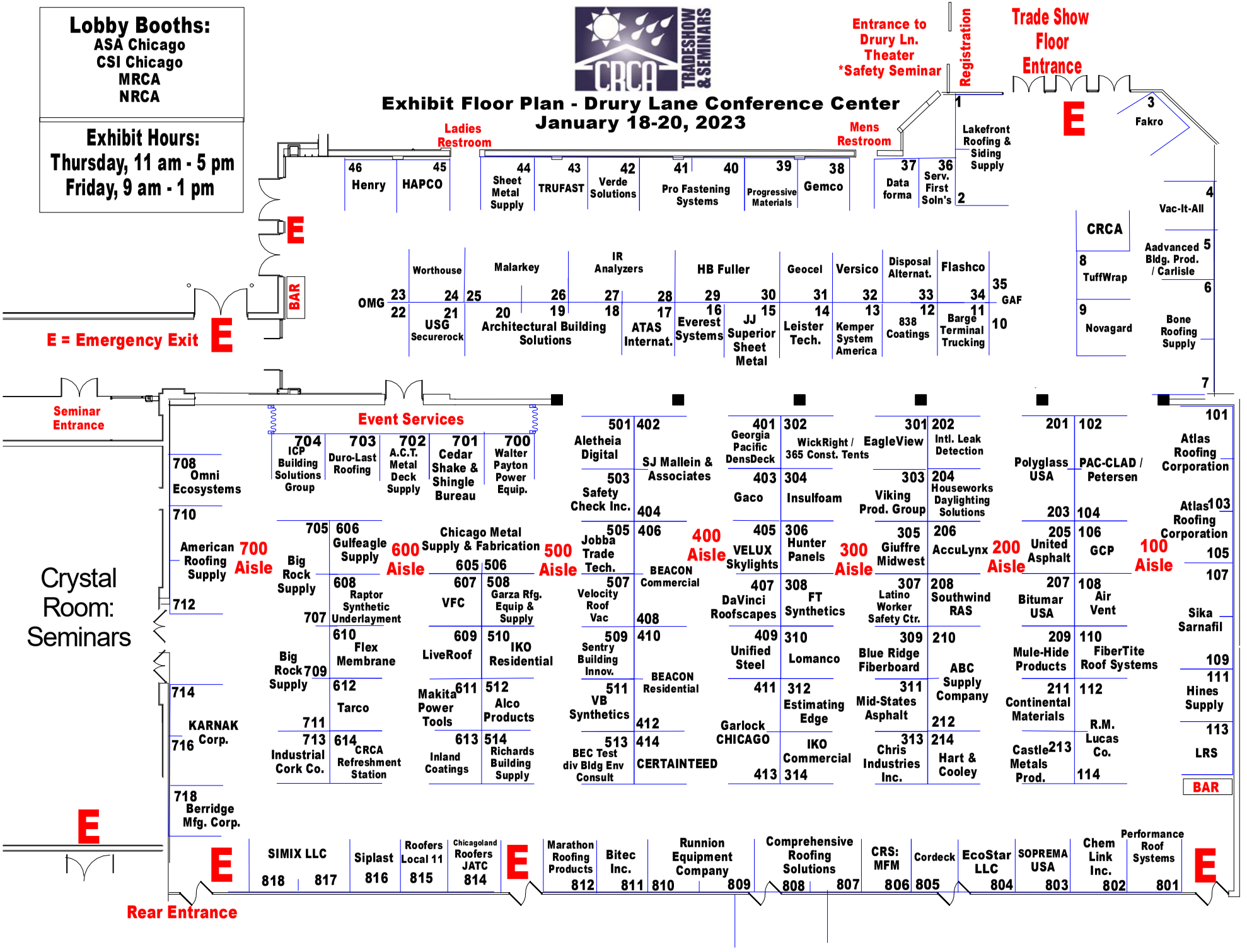

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Rear Entrance

Can a Contract Be Enforced Without a Countersignature?

By Trent Cotney

Trent Cotney

Whenever you enter an agreement with another party, you probably think that your signature on that contract is crucial. After all, it is required, right? Interestingly, a recent ruling from the U.S. District Court for the Southern District of Illinois enforced a partially executed agreement even though one party failed to countersign it. The court determined that assent was demonstrated based on the party's acts and conduct.

What the Case Involved

In *United States ex rel. Spirtas Worldwide, LLC v. SGLC Consulting LLC*, contractor SGLC Consulting LLC was working with subcontractor Spirtas Worldwide LLC in Marion, Illinois, on a U.S. Fish and Wildlife Service project. Spirtas filed a Miller Act claim against SGLC to recover labor and materials costs. However, SGLC pointed to their trade partners agreement (TPA), which included the consent to arbitrate. Based on that, SGLC filed a motion to dismiss the claim or at least stay the proceedings.

In response, Spirtas argued that the TPA was invalid because SGLC never countersigned it. In addition, the subcontractor asserted that the TPA should not be enforced because the agreement had been inconsistent regarding the arbitration venue selection. The arbitration clause called for the process to occur in Edwards, Colorado, but the separate venue selection clause called for its taking place in the state where the project was located. Spirtas stated there had been no "meeting of the minds" in the contract formation.

What the Court Decided

The U.S. district court first reviewed whether the dispute belonged in arbitration instead of in court. There is definitely precedent that an arbitrator must decide a contract governed by the Federal Arbitration Act (FAA), and that contract is both valid and enforceable. But whether the contract has been acceptably formed should be decided by a court.

The court considered whether SGLC's signature was required for the TPA to be valid. According to Illinois law, a party can demonstrate contractual assent through its acts and conduct, and it can be bound by its provisions, whether it has signed the contract or not.

After Spirtas signed the TPA, SGLC had repeated engagement with Spirtas. This behavior supported SGLC's assent to the TPA. This engagement included meeting about pre-bid actions, discussing demolition plans, and participating in site visits. SGLC also asked Spirtas to prepare documents that were incorporated into the prime contract, and it presented Spirtas to the government as its subcontractor. The court determined that these actions indicated assent to the TPA.

Spirtas indicated assent to the TPA because it signed the TPA. The court ruled that Spirtas could not question the TPA's validity since it had clearly agreed to it.

In addition, the court was not swayed by the inconsistent venue provisions argument that Spirtas presented. The court ruled that Spirtas did not adequately demonstrate how the inconsistencies made the TPA unenforceable.

Ultimately, the court determined that the TPA was both valid and enforceable. Therefore, both parties were obligated to follow the agreement to use arbitration. The court dismissed the claim. It did not issue a stay because, per the FAA, it was not allowed mandate arbitration outside its own district, and the TPA stated the arbitration location as Edwards, Colorado.

Advice for Contractors

You have undoubtedly heard how important it is to read and understand every contract you sign, but this case illustrated another critical detail. When parties enter an agreement, conduct and acts may be just as binding as a signature. Therefore, it is essential that you know your

state's laws and comprehend how your actions—and the actions of the other party—can make a contract valid and enforceable.

The information contained in this article is for general educational information only. This information does not constitute legal advice, is not intended to constitute legal advice, nor should it be relied upon as legal advice for your specific factual pattern or situation.

Trent Cotney is a partner and Construction Practice Group Leader at the law firm of Adams and Reese LLP and CRCA General Counsel. For more information on this subject, please contact the author at trent.cotney@arlaw.com.

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Industry News

By CRCA Staff

Siegel Speaks to CRCA Membership

At the November 8, 2022, CRCA Membership Luncheon and Meeting, Philip Siegel, Hendrick, Phillips, Salzman & Siegel, P.C. spoke to members on Employment Practices Liability. He covered when this type of insurance is needed, common claims not covered, EPLI coverage and other key information. Visit CRCA.org to download the presentation in the Members Only portal. Not a member yet? Contact info@crca.org to learn more.

CRCA Leaders in Springfield

CRCA Lobbyist and Consultant Margaret Vaughn organized a successful "Sea Cruise Night" reception for Illinois Legislators and their staff in late November. CRCA leaders Matt Adler, Kevin Filotto, Dan Henshaw, Mark Moran, Mitch Rabin, Rod Petrick, Tony Roque and Bill McHugh met with legislators to talk about upcoming energy code changes, and the Illinois Roofing Licensing requirements. Looking forward to CRCA's next reception in '23.

CRCA Photo

CRCA Members Recognized at Annual Award Dinner

On December 3, 2022, CRCA's board and members celebrated the accomplishments of 2022 and recognized the following for professionalism, outstanding leadership, and efforts to raise the bar in the roofing industry. 2022 CRCA Award Recipients include:

Clyde Scott Award:

CRCA Photo: Tony Roque, M. W. Powell Company

Award of Excellence:

CRCA Photo: Art Scheidecker, Architectural Building Solutions, Inc.

CRC / Local 11 Gold Medal Safety Award:

CRCA Photo: George Patterson (Bennett & Brosseau)

Associate of the Year:

CRCA Photo: Randy and Kevin Gleason (Gemco)

CRCA Announces 2023 Board of Directors:

Officers:

- President: Mitch Rabin, A-1 Roofing Co.
- 1st VP: Mark Moran, Knickerbocker Roofing & Paving Co, Inc.
- 2nd VP: Kevin Froeter, Sterling Commercial Roofing
- Treasurer: Casey Fraher, Crowther Roofing
- Secretary: Dan Henshaw: Riddiford Roofing
- Past President: Mark Duffy, Elens & Maichin Roofing & Sheet Metal, Inc.

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- Kevin Filotto, Filotto Roofing
- Larry Marshall III, L. Marshall Roofing
- Bill O'Brien, Jr., Combined Roofing Services LLC.
- Ryan Petrick, Ridgeworth Roofing Co., Inc.
- Bob Prette, Tidwell Roofing & Sheet Metal
- Shawn Sullivan, Olsson Roofing Company, Inc.
- Mike Zimmerman, Reliable Roofing

Associate Directors:

- Dave Good, Bone Roofing Supply
- Mike Lowery, A&D Products
- Ski Wysocki, Chicago Metal Supply & Fabrications

CRCA extends a great "thank you" to Jim Prusak, Prusak Construction & Roofing, Inc. for his service as director and office from 2015-2022 and Joan Crowe, GAF for her service as Associate Director from 2020-2022.

CRCA Photo: Jim Prusak, Mitch Rabin, and Joan Crowe

CRCA Announces New Education Series Format in 2023

Mitch Rabin, CRCA President announced the new 2023 programming format for CRCA Membership Meetings and events. With a "Topic Focus" vs a "Committee Focus", Rabin feels the new format will clearly define the programming to attendees and entice a larger audience to CRCA's events. Watch CRCA.org for the March 21, 2023, event details.

CRCA Foundation Scholarships Now Available

Annually, the CRCA Foundation awards over $25,000 in new scholarship awards, available to graduating high school seniors attending junior colleges or 4-year universities. These are based on academic performance, extracurricular activities, employment, and personal recommendations. To learn more, visit CRCA.org / Foundation and download the application.

CRCA Manufacturer Technical Resources Available–Are We Missing Yours?

Visit CRCA's new Technical Resource Portal where there are over 100 technical videos and resources from over thirty CRCA manufacturer and distributor members. Forward these valuable links to your crews or others for easily accessible technical information even when up on the roof.

Calling all CRCA Manufacturer members! Are we *missing* your technical information? Contact info@crca.org to be included.

Carlisle Syntec Systems Steps Up on Recycling

Carlisle SynTec Systems is pleased to announce it is collaborating with EnvironFocus™ to help reduce landfill waste generated by the commercial roofing industry. EnvironFocus™ is a sustainability services firm that helps clients improve their brand reputation and reduce their business risk in the communities they serve, providing increased market share and revenue while protecting the environment.

Carlisle's collaboration with EnvironFocus™ will help reduce the number of canisters, drums, and buckets that end up in landfills by providing contractors with a quick and easy container recycling option. This program will help Carlisle's customers save money while improving the long-term health of the planet by reducing landfill waste. EnvironFocus™ provides this recycling program "free-of-charge", with the only cost incurred by contractors being the shipping fee. Visit carlislesyntec.com and visit the Resources / Sustainability / Solutions to learn more.

CRCA Members Give Back

Olsson Roofing Photo

In November, Olsson Roofing's staff joined together to support the National Breast Foundation and to raise awareness of this terrible disease. The CDC estimates that over 265,000 cases of breast cancer are diagnosed in women annually in the U.S. as well as 2,400 in men. 42,000 deaths result annually as well.

Olsson employees wore pink shirts on Fridays and participated in other group activities and also made a group donation to the National Breast Cancer Foundation. Way to go Olsson!

(Editor's Note: If your company participates in other philanthropic events during the year, please send the information to CRCA.org.)

FlashCo Adds New Sales Rep

CRCA Member FlashCo announced in October the addition of Carl McCall to the Central Region–North. McCall brings over five years of roofing and waterproofing industry experience. According to Rick Santolaya, FlashCo National Sales Manager, "Carl understands the process from top to bottom and we're excited to have him continue to build our central territory" which includes IA, KS, IL, MO, MN, and WI.

Industry Acquisitions

HOLCIM

Holcim Has Completed the Acquisition of the Polymers Sealants North America
(PSNA) division of Illinois Tool Works. PSNA is a leader in coating, adhesive and sealant solutions with 2022 estimated net sales of USD 100 million. With more than 150 employees and manufacturing plants in California, Arizona, Texas, Georgia, and Massachusetts, PSNA will accelerate the growth of Solutions & Products, especially in waterproofing and coatings. PSNA's innovation-driven approach is highly complementary to Holcim's existing building envelope business and is expected to generate significant synergies.

Jamie Gentoso, Head Solutions & Products: "With PSNA we are broadening our waterproofing and coatings offering while delivering significant synergies with our roofing business." He continued with "By expanding our building envelope offering, together we can play a bigger role in providing innovative and sustainable solutions for energy-efficient buildings."

CertainTeed
SAINT-GOBAIN

Saint-Gobain Acquires GCP Applied Technologies
On September 27, 2022, Saint-Gobain received the approvals for its acquisition of GCP Applied Technologies Inc., a major construction chemical manufacturer. The specialty building materials business will be integrated into the CertainTeed business serving local customers in its Region. All other businesses, consisting mainly of concrete admixture and cement additives will be combined with the Chryso business and be part of the High Performance Solutions segment.

CSI Merges Chapters
CSI Northern Illinois and CSI Chicago Chapters announced a merger in September, creating the largest and most active CSI chapter in the country. CSI commented that the merger will facilitate more networking opportunities and expand access to programs and events.

To learn more, visit csiresources.org or stop by CSI's booth at the January 18-20, 2023, CRCA Trade Show and Seminars!

CRCA Code Corner

CRCA & 2021 IL Energy Conservation Code— CRCA Participated in the adoption process for the 2021 International Energy Conservation Code Process–at the State of Illinois. Amendments that were in the 2018 version of the code, are still valid until the 2021 version is adopted through the Illinois legislative process.

CRCA & IL "STRETCH" Energy Conservation Code—The State of Illinois Energy Code adoption process is managed by the Illinois Capital Development Board (CDB). The CDB has advised us that a new "Stretch" Energy Code is being developed, based on direction from the Climate and Equitable Jobs Act (CEJA), now known as the IL Energy Efficiency Act. An Energy "Stretch" Code is a more aggressive code than the "Base Code". A stretch code becomes mandatory, only if adopted by municipalities in Illinois.

CDB hired two out-of-state organizations, The Rocky Mountain Institute (RMI-Colorado) and New Buildings Institute (NBI-Oregon), to be technical experts helping the Illinois Energy Code Advisory Council develop a new IL "Stretch" Energy Code. CDB stated they did not have the technical ability to manage the "Stretch" Energy Code development process.

RMI and NBI representatives, working with CDB, have been presenting proposals from the not-yet-approved DRAFT 2024 International Energy Conservation Code–for the basis of the "Stretch Code". We're a bit curious why a DRAFT would be used as a basis when it has not been fully vetted, and why an out of state firm is leading the process. Was there no talent in Illinois that could provide services free of charge for this "Stretch" code development process?

Others participating in the process, including CRCA, have stated that the state use the already published 2021 International Energy Conservation Code (IECC) as the starting point, then amend it to "Stretch". This way, code officials and industry only learn one code at a time. Plus, the 2024 IECC has not yet been published. We really don't know the content of that code yet, as it is not finished.

CRCA's George Patterson was appointed by the IL CDB, as a member of the Illinois Commercial Energy Code Advisory Council that approved amendments to the 2018 IL amended IECC now in use, and the 2021 IL amended IECC. This group is now developing this "Stretch" Energy Code. Patterson brings a field construction project focused perspective to the council. With several meetings to go for both commercial and residential codes, a final draft of the "Stretch" Code is to be published and ready to adopt by December 21, 2023.

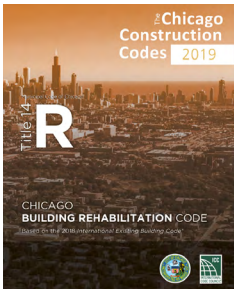
Chicago Codes - Did you Know?—Did you know that CRCA's Industry Affairs Committee collaborated with the City of Chicago and the State of Illinois on the concept of technical infeasibility for roofing work?

When reroofing, there are some that believe that the roof insulation needs to be upgraded to new construction thicknesses, regardless of obstacles.

Significant costs arise when existing building limitations such as low wall edges, doors at the rooftop, HVAC equipment and other curbs are too low. Also, new thicker wood blocking at perimeter edges means much work and wood–to accommodate new construction insulation thicknesses.

Section 306 in the 2019 *Chicago Building Rehabilitation Code* (CBRC) allows less than new construction insulation thicknesses when a technical infeasibility situation arises in reroofing at existing buildings. The City does not require special permission for this, as it is in their existing building code.

Roofing contractors often replace existing low efficiency insulation with equal or better efficiency insulation with today's higher R-Values during the reroofing process. This way, the building insulation value is NOT reduced, but might even be better performing, saving energy–and providing value to the building owner and manager.



CRCA's Industry Affairs Committee collaborated with the City of Chicago, on CBRC Section 306.1 for Chicago's existing buildings.

Want to learn more about codes in Illinois, Chicago and Beyond? Don't miss CRCA's Trade Show & Seminars, Jan. 19 & 20, 2022 Drury Lane Conference Center, Oakbrook Terrace. Register at CRCA.org / Events / Trade Show.

Chicago Energy Transformation Code—The 2022 Chicago Energy Transformation Code, based on the 2021 edition of the International Energy Conservation Code, applies to projects where the first permit application is started on or after November 1, 2022. Additional requirements of this code will apply to projects where the first permit application is started on or after January 1, 2023.

The 2019 Chicago Energy Conservation Code, based on the 2018 edition of the International Energy Conservation

Code, applies to permit applications started between June 1, 2019, and October 31, 2022, as well as subsequent phases of projects where the first phase permit is subject to this code.

The City of Chicago is working with the International Code Council to publish a compiled version of the 2022 Chicago Energy Code, which will be available in the near future in print and digital formats. Until that is available, please reference the local amendments.

When it comes to reroofing, refer to section 306 of the Chicago Building Rehabilitation Code.

CRCA Statewide Work—As you can see, CRCA is involved statewide in issues such as Building and Energy Codes, Existing Building Codes, Roofing Contractor Licensing, and others, that affect roofing contractors and building owners in the State of Illinois. While our association includes "Chicago" in our name, our reach is much more. Thanks to CRCA's downstate members for your support. If you company is located outside the Chicagoland area and is not a member, visit CRCA.org today to join.

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