



# BULLETIN

BC Construction Association

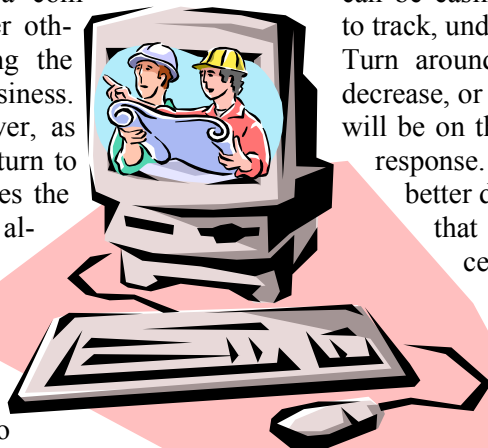
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## When the Moon is in the 7th House...

Forget Aquarius--we have now entered the Age of Electronics. Certainly the e-evidence is all around us. E-mail, e-commerce, e-construction, e-ndless. For those in the construction industry who may wish to maintain their current way of doing business, stopping time might be the only answer. For the rest, you might as well make the best of it and embrace the new technologies that are coming your way, for to do otherwise is to accept the inevitability of losing your competitive edge in the market place.

Web-based project management\*\* is quickly becoming "the way" to do business in the United States, and Canada will not be far behind. Project documentation is posted on a dedicated website which authorized project members can access and interact through. The vendors of these services all claim that using their project management tools will provide significant cost savings, and increased efficiency for your construction project. Those contracting companies who are first up to the plate will certainly obtain a competitive edge over others left pondering the value of e-business. Over time however, as more companies turn to web based services the cost savings will almost certainly pass through to the owners, leaving the contractors will little more to show in the way of increased profit margins than they had before.



So, the question is: *Over time, will these new web-based project management tools really bring any benefits to contractors and trade contractors, or is it just another twist in the road that will have to be navigated in order to do business in the future?*

And the answer: *Absolutely—think litigation, or rather—litigation avoidance.*

A potential benefit of using a web-based project management tool is the required collaboration of all the varied parties to a construction contract. Improved communication within the construction chain and properly maintained documentation is a natural side effect of these services. Improved communication means less opportunity for error, and proper documentation means increased accountability for everyone. Project documentation including decision documents, drawings, change orders and correspondence are put up on the web, accessible by all authorized project members. Information can be easily organized, making it easy to track, understand and respond to. Turn around time for response should decrease, or at the very least the spotlight will be on the party accountable for that response. Better communication, and better documentation does not mean that disputes will not arise, but certainly there will be a much higher probability of resolving such disputes without resorting to litigation.

Organized, complete and accessible docu-

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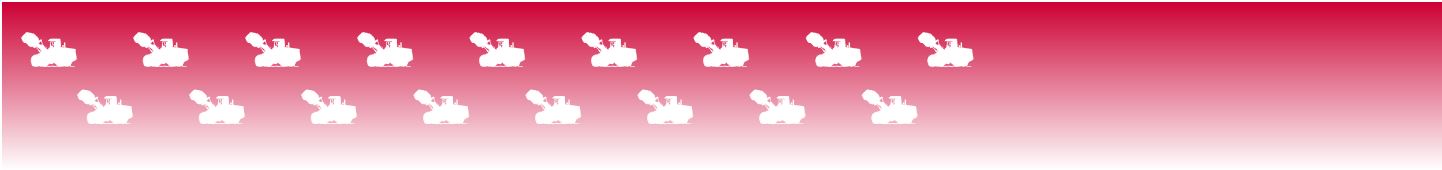
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## When the Moon is in the 7th House...(cont')

mentation is a great side effect of web-based project management. Keep in mind however, that there are other concerns of a legal nature that need to be satisfied prior to embarking on such a service, such as:

- ✓ Will your documents be protected from unauthorized revision?
- ✓ Who owns the data on the site?
- ✓ What happens if the server goes down and the data is lost?
- ✓ Will your electronic communication create a contractual obligation?
- ✓ Can unauthorized users gain access to the site?

All of these concerns can be handled, if properly addressed. Data can be backed up, and hard copies made of necessary documentation. A good service agreement

with the company providing the web-based project management tools can provide many of the assurances needed. Once such concerns are addressed, the advantages of improved collaboration and communication on a given construction project will be there for the taking.

At the end of the day we remain in our new Electronic Age, so we might as well “get with the groove” and accept the benefits that are available!

*\*\* If you are interested in learning more about web-based project management tools and the advantages of using them, we recommend you call **Construction Information Technology Inc.** at (250) 727-0702 or send your questions by e-mail to [drobertson@citinc.com](mailto:drobertson@citinc.com), or visit their website at: [www.CITinc.com](http://www.CITinc.com)*

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## Rights to Payment in Question

A recent decision in the Supreme Court of BC has put the Contractor's right to payment following the issuance of a Certificate of Progress Payment, in question. In Swagger Construction v. The University of BC, the General Contractor sought a judgment requiring the defendant Owner to pay up on an outstanding progress payment which had been issued by the design consultant. Substantial performance had also been certified. The Owner defended his refusal to pay by claiming a right to set-off against the sum demanded.

The Court held that the Owner in this case was not wrong in its refusal to pay, despite the wording of the

standard CCDC-2 contract which required the Owner to make payment within 10 days of the certificate of payment being issued by the Consultant. The defendant's right of set-off had not been contractually removed and, therefore, the Owner was not obligated to pay. *(The facts on whether the Owner had a claim against the contractor for delay and correcting deficiencies were not in question at this hearing.)*

The ramifications of this decision are obviously disturbing to general and trade contractors alike. Support for further legal action to challenge this decision will be sought from the Canadian Construction Association.



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The mission of the BCCA is to provide leadership and excellence in the representation of and service to British Columbia's construction industry

