

Get It in Writing

by Ron Nardozza

Some years ago, I was involved in a custom home-building project that started out just a little too easy. The client, a cardiologist with plenty of money and little time, had no questions about my contract and specifications, and signed everything without reading any of it, anxious to get on with building his vacation home. Well, what appeared on the surface to be a client made in heaven left me with a knot in my stomach. We were dealing with a large sum of money and a complicated project, with a number of items yet to be decided upon. I had my down payment and I had his signature, but I could also imagine him in a deposition hearing.

Forging Ahead

I didn't want to walk away from a potentially lucrative and prestigious job. In fact, I couldn't — I had signed the contract, too. So I began work but kept an extensive job-site log of everything that happened (or didn't happen). And we agreed to hold weekly meetings to keep everyone abreast of progress — so far, so good.

At the weekly meetings, we would discuss any number of things that had come up — finalizing placement of doorways and light switches, agreeing on schedules for his material choices, modifying the plans slightly to better suit the site or satisfy the building inspector. We all took notes.

The problem with this process became evident after the first couple of meetings. It turned out

that we heard and remembered things differently and emphasized different things in different ways. What I saw as important, my client did not, and vice versa. What I heard him promise was not what he remembered promising at all.

Trouble brewing. So, after the second meeting, I began to summarize everything we had talked about in a letter, which I sent to him by regular mail with copies to everyone else present at the meetings, such as the framer, the building designer, and the interior decorator.

In the letters, I covered all of the points that had been raised, the decisions reached, the promises made, and

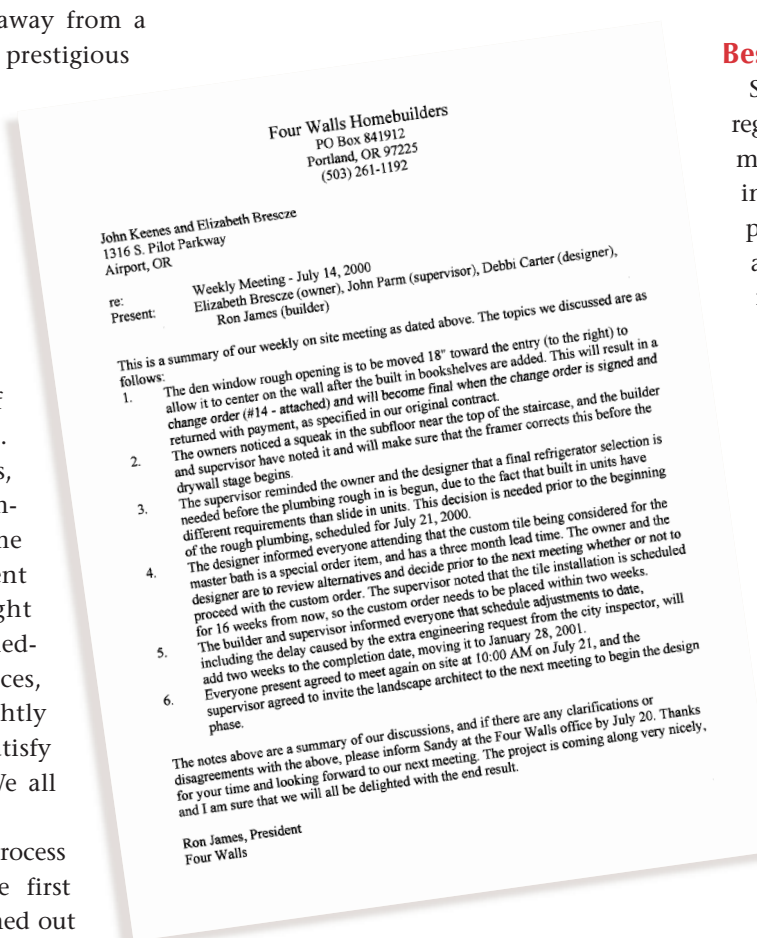
the items that needed further exploration. And then I stated that any disagreement with this summary must be raised immediately, before the decision would become final. (I defined "immediately" as before the next week's meeting, or by a specific date.)

This precaution proved to be an invaluable defense later on, when my client's memory began to fail on such points as schedule delays caused by his tardy selection of interior paint colors, or by ordering custom tile that took extra weeks to obtain. In a subsequent arbitration hearing, I lost on only one point of over two hundred that he raised: I had agreed to provide house numbers of a minimum size but was a fraction of an inch off, an easy fix.

Best Practice

Since that time, I've made it a regular habit to write letters summarizing conversations and meetings that I've had with prospective and signed clients, architects, salespeople, government officials, suppliers, subcontractors, and even employees. I use the same format each time and send the letter within 24 hours of the meeting or conversation. It's addressed to the primary party, as well as any other affected parties. I rarely use certified mail, believing that it's unnecessary and could set an adversarial tone.

I open the letter by stating that it is a summary of a conversation or meeting held on such and such a date and list the parties who were present and the items that were



discussed. I recap the decisions made and which items remain to be decided. And I ask that, if the letter contains any incorrect assumptions, the recipient notify me immediately by mail or phone. Phone calls over differing interpretations automatically generate a clarifying letter.

These letters notify my clients that things are moving forward according to the points of the last discussion and ferret out any disagreements in interpretation or decisions before they become a disruptive force.

Cure for Selective Memory


Without written documentation, misinterpretations can become points

**What I heard the
client promise was not
what he remembered
promising at all**

of endless debate. Memory is fleeting, and you can bet that the other party will remember events only as they favor him or her. Against this twist, my summary letters become de facto addenda to the contracts and change orders that guide the project.

Up-to-date communications. I also use e-mail as a delivery option, but I

track each and every piece of that correspondence and print them all out. One hard-drive crash was enough to convince me that there's nothing like a hard copy. E-mail is tagged with its send time and date; you can also request an automatic e-mail receipt from the addressee.

In an increasingly litigious world, documentation is king. My letter writing habit has proven its worth to me more than once and has gone a long way toward reducing disputes and misunderstandings. 

Ron Nardoza is a custom builder in Portland, Ore.