

Second Edition

G.BATISTA's ONE-HOUR GUIDE TO **Hiring an Owner's** **Representative**

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IN SOUTH FLORIDA

**Do I need
an Owner's
Representative?**

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best consultant
for the best price**

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**Just ask
G. BATISTA**

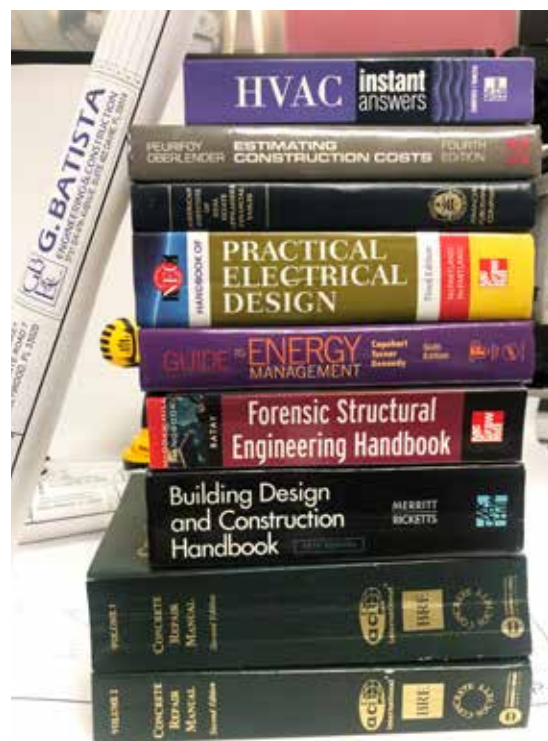
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ABOUT THE AUTHOR



DID YOU KNOW?

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For over 30 years, Mr. Batista has been a Licensed Professional Engineer and Licensed General Contractor in multiple states and is a well-respected member of the concrete construction and repair industry. Mr. Batista sat on the Broward County Board of Unsafe Structures and has been Director of the Board of the largest Hispanic Professional Engineering Association in the United States and has won several professional awards and recognitions.

In the year 2000, Mr. Batista began Real Estate Engineering, LLC and is the President of G. Batista Engineering and Construction, a prominent Engineering and Concrete Repair contracting company with multiple locations.

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INTRODUCTION (IMPORTANT TO READ)



Throughout all of the years that I have been involved with the engineering and construction industries, the question that constantly pops up and leads to the most confusion is “What is an Owner’s Representative and do I really need one?”. The real answer is “it depends”. It depends on a wide variety of factors that we will discuss in as much details as practically possible because construction and engineering industries are quite complex, and the proper completion of a construction process is so intricate and fraught with pitfalls, that at some point you must make an educated guess as to whether you will be better off paying an experienced industry professional, going about it on your own, or going out on a limb hiring a less experienced professional consultant.

Let’s start out with the most obvious question: What is an Owner’s Representative:

An Owner’s Representative is an independent entity that acts as an extension of the Owner’s staff managing the day-to-day operations of a project. The Owner’s Representative can advise and represent the Owner from the earliest stages of the project, starting with conceptual design, through the final design, permitting,

This guide is designed to answer this most important questions of “I know what an Owner’s Representative is, so do I really need one? And if I do need one, then how do I go about making the best choice?”

pre-construction, bidding construction, commissioning, move-in and preliminary occupancy stages.

If you know anything about construction, you know that this is a mouthful. An Owner’s Representative at its core, is an experienced professional that protects the Owners interests on more complex and/or expensive projects. And I put the extra emphasis on the word “experienced” because if a person is going to be the “Maestro of the Orchestra” that is going to guide all the different players and instruments to play a beautiful concerto, then that Maestro should have an intimate knowledge of the music, the players, and have a working understanding of each of the instruments.

This guide is designed to answer this most important questions of “I know what an Owner’s Representative is, so do I really need one? And if I do need one, then how do I go about making the best choice in hiring one?” 

DIGGING A LITTLE DEEPER ON WHAT IS AN OWNER'S REPRESENTATIVE

In today's economy where one needs to squeeze the most that you can out of your budget, Board Members, Home Owners, Property Managers, and Facility Maintenance Managers have the need to depend on a set of experts that will look out for their interests and avoid being taken advantage of when in the midst of planning, designing or constructing a project.

The Owner's Representative can have a critical impact on the success or failure of your construction project because they are at the "center" of your project and are the "glue" that holds all the pieces together and ensure that all the communications are open and efficient. However, a lot of this has to do with what the Owners have actually hired the Owner's Representative to do (as per their contract). An Owner's Representative, on one hand, can be responsible for visiting the jobsite only once a month with very limited responsibilities. On the other hand, the Owner's Representative can also be responsible for having a full-time person on the jobsite and be in charge of pretty much every aspect of the project and therefore carry an enormous amount responsibility. You can then see how an Owner's Representative can charge a little bit of money and how others can charge large sums. In the later Chapter entitled "The Contract" we will go into a little more detail of the different "scope of work" items that could be on a contract. In this particular portion of this guide, I will attempt to explain in a little more detail what an Owner's Representative does. At its most basic, the Owner's Representative acts as a liaison between the different players on the construction and/or design team, all in representation of the Owner.

The Owner's Representative acts at a liaison between the Owner and the Design Team

Typically, the first step to getting a construction project completed is to employ a design firm (an Engineer or an Architectural firm). For the purposes of this guide, I will be assuming that you will need a design team to do some plans and specifications for you. If your project is small

enough where you will not need any plans or specifications, then you will not likely need an Owner's Representative because the project is so small. However, if you really don't know if you'll need to hire a design firm, then your best place to start your search is to call your local Building Department (if you really want some unbiased feedback). Once you know if you will need a design firm, then its off to finding a good Engineer or Architect to help you out.

Let's say that you don't want to call your building department, read about it, or spend the time looking for an Engineer since you feel that it is outside of your expertise. Great! This is the exact type of thing that an Owner's Representative can help you out in. You can feel free to call our phone number on the cover of this guide and we will be happy to let you know if your project will need a design firm. In a perfect

world, you should really hire your Owner's Representative before you hire your Design Team because your Owner's Representative will help you cull through your options and choose the best design team for your particular needs and budget. If you were able to read my other guide entitled "G. Batista's One-Hour Guide to Hiring an Engineer", you will see that hiring a good Engineer or Architect is critical to the success of your project also. Either way, my firm and I are here to help you through this process.

Once you have gone through the process of identifying, investigating and contracting your design team, then it is basically up to your Owner's Representative to jump into action on representing you, the Owner, so that the design team can efficiently and competently bring your vision to life.

Designing and engineering are inherently complicated. The vast majority of designers (Engineers and Architects) are very competent individuals that would not purposely and maliciously take advantage of their clients. However, we live in a capitalist society where making money is the name of the game and buyers must beware and cover themselves as best as possible. This is where your Owner's Representative can help you out. Let me provide you with just one example.

If you need to find a good design firm, then you can read my "G. Batista's One-Hour Guide to Hiring an Engineer" for some great tips and advice. This is downloadable for free at our website askgbatista.com

You hire a design firm to design a brand new community clubhouse for your 200+ unit association. You tell your design team that you want a large pool with marble tile, showers, and a gym. That is what they will go out and do. Most design firms will ask you what your budget is so that they can let you know if you are being realistic or not. However, it is your Owner's Representative who will help you initially temper your expectations and provide you with valuable feedback because he is, after all, on your side and would typically have extensive experience as to real-world construction costs so that the entire team is well-rounded and therefore well-informed.

During the initial design phase of the project, your Owner's Representative and your design team are in more of a "collaborative" state since this is the juncture where ideas are basically thrown around and where the Owners will make the most informed choice as to where they want their project to go – aesthetically, functionally, and financially.

Once the design is finished, then the next phase of the Owner's Representative/Design Team relationship is the one where the project gets underway. I like to give the analogy of when you first meet a person that you really like and want to have a long-term relationship with. In the beginning, things are typically great and there is much hope for the future because you are planning your future and are getting to know each other. However, as time goes on, you get to know more about the person and things begin to get more complicated once your relationship begins to put those plans into action. It is during this "complicated time" where having an Owner's Representative pays off. There may be design mistakes that may have to be resolved. Maybe there is a service that you expected the Designer to perform, but was not expressed in the contract. Maybe there were design omissions, or maybe there were design-related misunderstandings that have led to an unfortunate conflict. It is in this "heat of the battle" that your Owner's Representative will pay for himself in managing the project efficiently and avoiding costly mistakes, errors, and omissions.

The Owner's Representative acts at a liaison between the Owner and the Building Department
Even before you decide to venture out and plan a large

addition to your community's common areas, you will need to have your local building department on your side and aware that you are planning to perform a construction project. Many times, Owners will hire Architects, Engineers and other professionals to help them understand what it is that they are doing and will provide useful information and insight. During the initial stages of your design, both your design team and Owner's Representative can assist in approaching the building department to gain important information such as permit fees and the understanding the process. Most importantly, the building department will let you know if the project is even viable given the existing Planning and Zoning rules. Granted, these are all items that would be true for large projects. Smaller projects would not come into play for these items to be taken into consideration.

The Owner's Representative acts at a liaison between the Owner and itself

One of the most unfortunate lessons that I have learned in all my years of working with thousands of Owners is that there will inevitably be conflicts within the Ownership group itself (unless there is only one Owner) particularly when there is "big" money that is to be spent. These conflicts can easily spire out of control and end up in courtrooms, turn into unnecessary legal battles and even cause enough friction that restraining orders between Board Members have occurred. I have seen all these happen before my very eyes and it is not in anyone's best interests (except for the attorneys) for any of this to happen. In the special circumstances where there are Association Boards (that are elected by the residents) and there are Property Managers that are in charge of making sure that all matters pertaining to the property are kept in check, there is almost always a healthy dose of distrust between all the players that comprise the ownership, the residents, and the management. The vast majority of the time, this "mistrust" is misguided and mostly due to one of the party's ignorance of the facts of what is transpiring. This is to be expected since, after all, we are human and when there is a lot of money on the table, these sentiments tend to magnify. An experienced Owner's Representative will act as a "buffer" between the ownership factions since the Owner's Representative has been hired as a disinterested 3rd party that has nothing to gain by making a project larger, hiring a certain contractor, or being on the side of "X" resident, or "Y" Board Member.

Putting all of the above legal and personal issues to the side, the Owner's Representative is the go-to person that knows all of the ins-and-outs of the project regardless of whether there are changes to the ownership, the Board, or

the property management company. Particularly on larger and more complex projects, the Owner's Representative will be there to lend that vital continuity to the project. The Owner's Representative is your representative. This is the person that will take responsibility for all these items that they have been tasked to do as per their contract. Hopefully, the Owner's Representative will have enough responsibilities to take care of sufficient aspects of the project so as to provide an adequate buffer from the chances of an issue turning into a big problem. But we will get into this important aspect of ensuring that the Owner's Representative has sufficient responsibilities in the coming chapter entitled "The Contract". It should suffice to say in this section that the Owner's Representative is the go-to person as far as the Owner is concerned and will protect the Owner's interests throughout the entire project.

For an existing property, should I have the Property Manager act as the Owner's Representative? Everyone knows that Property Managers are an integral part of ensuring that a multi-unit property functions properly. Most Property Managers do not have the experience or education to deal with complex and large design or construction projects. But I do I know many Property Managers that can easily and competently handle smaller projects such as wall repairs, changing equipment, hiring and managing landscaping and security companies, etc. And I know of a rare few that have a vast amount of construction experience where they can handle a large project as an Owner's Representative would. Be that as it may, the fact remains that a Property Manager will likely already have their hands full performing their day-to-day duties. In the case of larger projects, many Owners are tempted to have the Property Manager absorb the Owner's Representative responsibilities. In the case of larger and complex projects it is typically a huge mistake to do this. In the case of a smaller project, it is typically part and parcel of what a Property Manager is supposed to do at their property.

The Owner's Representative acts at a liaison between the Owner and the Contractor

We are finally to the part where the Owner's Representative really makes his money. Everyone knows that construction is a complicated endeavor where any mistake can have dire repercussions on your budget, where any accident can have a severe negative impact, where a slow contractor can enrage the residents, and where unnecessary and perhaps avoidable budget overruns can cause tremendous problems for all parties involved.

Most competent individuals and firms that provide Owner's Representative services are experienced contractors of 20 or more years. These people know the game. If you look at it a certain way, in many aspects it is a "game" where the construction company tries to get as much money as they can for the least amount of work, within the framework of the contract. Any contractor who tells you different is insincere. Now, I'm not saying that contractors are out to cheat and steal their way to make money; I'm simply stating that all contractors are in the business of making money and contractors have ways of maximizing their profits by doing an excellent job, and others by cutting corners. You must protect yourself as best you can.

I've been a firm believer in the adage "Trust, but verify". This is certainly true for the construction business. In short, your Owner's Representative is the person who will take on the role of "verify". They will verify that the contractor is doing their job correctly by installing the right materials in the right way, by policing the safety, by ensuring quality control is maintained, by making sure that enough quality workers are on site and that they are adhering to some sort of plan or construction schedule. The "services menu" list goes on and on.

There are many ways that the Owner's Representative will make sure that the contractor is kept in check. First of all, we must start out with defining exactly what it is that the Owner's Representative is responsible for. I personally have been an Owner's Representative where my only contractual obligation was to go to a weekly meeting to make sure that the contractor was performing in accordance with the previously-established project schedule. That was it. I was not to get into any of the budgetary items or even make sure that the work was being done correctly. Obviously, I had previously explained to the Owners the pro's and con's of doing things the way they wanted to do them. On the other hand, I have been Owner's Representative on projects



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where it demanded a full-time person on the project due to its high degree of difficulty and project logistics where the construction had to be performed while the hotel remained open to the public.

Thus, it is important to highlight that the Owner's Representative's responsibility is to be the "Maestro of the Orchestra" to ensure project success. This is accomplished only through the Owner providing the Owner's

Representative with the power to do so. This, in turn, is accomplished through properly defining the Owner's Representative's "Scope of Work" in his contract. A well thought-out scope of work will ensure that the different salient aspects of the project are accounted for and that the Owner's interests will be properly looked after. A very narrow and skimpy scope of work designed with the sole intent to save money will likely not do much to protect the Owner's interests. 

WHY IS AN OWNER'S REPRESENTATIVE IMPORTANT?

Consider the following scenario. You have been charged with a crime and there is "evidence" that falsely frames you as actually having committed the crime. Would you go about defending yourself? Would you hire an attorney? If the crime were serious enough, I would bet that you would hire an attorney, or someone who has intimate knowledge of the ins-and-outs of the laws and the judicial system and would eventually guide you to being absolved of the crime. There are instances where you would find yourself in some trouble where you could easily navigate yourself out of problems such as a traffic ticket, and there are others that are not as simple. The same goes for needing an Owner's Representative. There are projects that begs the need for hiring a construction/design consultant, and others that do not.

Take the Quiz...Do I need an Owner's Representative?

There are no rules that state when, where, and under what circumstances you will need an Owner's Representative. If Owner's Representatives were free of charge, you should then use them on every single project you have. The reality is that at the end of the day, you must weigh the risks of your own project realities, with the expense of having an Owner's Representative watch your back. This particular quiz was designed to help you arrive at an answer. For each question, jot down the answer along with the associated points. Tally up the points at the end and get your total. Your total will let you know how you fared in the quiz.

THE QUIZ

- 1. What is the approximate cost of the project (best guess)?**
 - a. \$1,000 or less – 0 POINTS
 - b. Between \$1,000 and \$50,000 – 5 POINTS
 - c. Between \$50,000 and \$100,000 – 10 POINTS
 - d. Between \$100,000 and \$1,000,000 – 20 POINTS
 - e. Between \$1,000,000 and \$2,000,000 – 60 POINTS
 - f. More than \$2,000,000 – 100 POINTS
- 2. Do you have a Construction Team that you (or your Ownership team) trust?**
 - a. I/We trust them with my life – 0 POINTS
 - b. I/We trust them somewhat – 10 POINTS
 - c. I/We don't know or trust any contractors – 40 POINTS
- 3. How important is it that you stay on budget?**
 - a. We have a budget, but if it goes over, it's not the end of the world – 0 POINTS
 - b. Staying on Budget is important and we are certain that there will be no surprises – 20 POINTS
 - c. Staying on Budget is Extremely important. There is literally no money for cost overruns – 40 POINTS
- 4. How important is it that you finish the project on time?**
 - a. The end date is not important at all. – 0 POINTS
 - b. It's not that important if we go over by a few weeks or a couple of months. 10 POINTS
 - c. It's very important that the project finish on time – 40 POINTS
- 5. Does one of the Owners (Board Member, resident, or Property Manager) have some construction experience and is willing and able to spend time making sure that the project runs smoothly?**
 - a. Yes. We have a person that can fulfill that role – 10 POINTS
 - b. We are not sure at this time. 20 POINTS
 - c. There is no one that can fill that role – 40 POINTS
- 6. Is it important that you "value Engineer" your project? In other words, find ways that you can save money on the job by finding alternate construction methods, or materials.**
 - a. It is not important – 0 POINTS
 - b. It is somewhat important - 10 POINTS
 - c. It is very important – 20 POINTS
- 7. Is it very important that the workmanship quality of the final product be of the highest caliber?**
 - a. It is not important – 0 POINTS
 - b. It is somewhat important - 10 POINTS
 - c. It is very important – 20 POINTS
- 8. Is it very important that the project logistics runs like a clock ? (for example, if the project is located in a place where there is public traffic such as a busy hotel or an airport, where adhering to jobsite rules and logistics are extremely important).**
 - a. It is not important – 0 POINTS
 - b. It is somewhat important - 10 POINTS
 - c. It is very important – 20 POINTS



DID YOU KNOW?

Engineers and Architect can provide services that are similar to an Owner's Representative, but they are not completely unbiased. What if there are design or engineering issues? Will the design team genuinely advocate against themselves? I doubt it. Remember that the designers are but part of the entire project team and many times are at fault for unfortunate occurrences and mishaps that happen on a project. I should know, I've built, designed, and inspected thousands of projects. An Owner's Representative is the only truly independent 3rd party that protects and advocates for the YOU, the Owner.

What was your score?

Its time to tally up your scores. For each answer you gave, please add all of the answers up and see where you are.

IF YOU SCORED 50 POINTS OR LESS

You don't need an Owner's Representative although every construction project needs some tender loving care. You don't need to go through the expense of hiring one unless you do it yourself or have a friend or acquaintance that has minimal construction experience give you a hand.

IF YOU SCORED BETWEEN 51 AND 175 POINTS

It does not seem as though you are in dire need of a consultant such as an Owner's Representative that will be intimately involved in all aspects of your project. This is where your design professional can take care of many of the issues that are present during a small-to-medium sized project. Go through your design professional's contract and see if they have already included in their contract some of the "menu items" that are traditionally taken care of by an Owner's Representative. You should be in good hands given the level of oversight you have sought on your construction project of limited scope, size and complexity.

IF YOU SCORED BETWEEN 176 AND 250 POINTS

You should definitely look into the possibility of hiring an Owner's Representative. At a minimum, you should talk to a couple of companies that offer this service and interview them. You will find that many companies (including my own – go to www.askgbatista.com) will listen to you and give you some insight as to whether you will need their services. Here at G. Batista Engineering and Construction, we can review your project and determine if there are any gaps in services and provide you some feedback.

IF YOU SCORED MORE THAN 250 POINTS

Don't even think about not hiring or obtaining a good Owner's Representative. Keep reading this guide as it will guide you through the steps to finding and retaining a competent Owner's Representative.

A Caveat to this quiz:

This quiz assumes that you have not hired your design team as your consultant that will guide you through the construction process. In fact, you can definitely hire your design team to take some of the responsibilities that an Owner's Representative may have. Many design professionals (Engineers and Architects) can include services that are similar to what an Owner's Representative can do. In South Florida, these services are referred to as "Construction Administration" services. These "Construction Administration" services cover things such as answering contractor questions, reviewing quality control, and attending site meetings. But at the end of the day, they do not represent you completely. What if there are design or engineering issues? Will the design team genuinely advocate against themselves? I doubt it. Remember that the designers are but part of the entire team and many times are at fault for unfortunate occurrences and mishaps that happen on a project. An Owner's Representative is a truly independent 3rd party that protects and advocates for the YOU, the Owner.

Designers design buildings, contractors build buildings, and Owners Representatives, in understanding the entire planning and execution process, act as the binding agent between all the players. One of the main goals of a competent Owner's Representative is to make the most out of your construction and design dollar. More often than not, it is money well spent.

If you have already hired your design team to provide you with some "Construction Administration" for your project, then you will be best served by understanding exactly what "Construction Administration" services you have contracted for in your Engineer's or Architects contract. Only then will you be able to determine if there are any glaring gaps in services where you should still employ an Owner's Representative to fill for the sake of the project and make sure that you, as the Owner, are covered. 

I'LL BE LOOKING INTO HIRING AN OWNER'S REPRESENTATIVE...WHAT DO I DO NOW?

For Starters

As in anything in life, there is a thought process to making any decision. Some decisions come without even thinking, and others don't. In choosing an Owner's Representative for your project, the process does not have to be complex or difficult. But you do have to come to the realization that there are good Owner's Representatives and there are not-so-good ones. There are cheap Owner's Representatives and there are expensive ones. There are competent Owner's Representatives and there are others that are not as competent. Some have the sufficient experience to handle very complex projects and others not as much. The list goes on and on. These are all matters that one must consider when choosing a professional that is so consequential to the success of your project.

A great place to start your quest is to search for a local Owner's Representative that is used to dealing with the different cast of characters in South Florida. Remember, this guide is specifically written for the South Florida audience because of the peculiarity of how construction and engineering is done here in the Dade, Broward, and Palm Beach Counties. Ideally, if you can find an Owner's Representative that has worked in the particular city where the project is located, then that would be ideal. However, most established Owner's Representative firms located in South Florida have already worked with most of the different cities in the South Florida area and may have even already worked with others on your team.

Having worked with virtually all of the Cities in South Florida over a span of 30 years, I can tell you that it is very advantageous for your Owner's Representative to understand how your particular City and County works as far as how they review plans and enforce the Florida and Municipal Code, and basically knows how to navigate the complexities inherent in making a project come to life given all the unfortunate mishaps that could happen on a project.

Leverage the power of Google

For the purposes of this guide, I am going to assume that you don't already know an Owner's Representative that is competent, experienced, and relatively economical. If you already know someone like that, then you can skip a lot of what is contained in this book. However, if you are

looking for comparative pricing or don't already know a worthy Owner's Representative, then this section will be most helpful in your search for a good professional.

The best way to begin your quest is by searching Google assuming you don't already know someone trustworthy and qualified. You should write the key words with what you need, and the area where they should be located (i.e. "Owner's Representative Broward County Florida"). Once you click on "Search", you will get your answers. There are 3 major portions of the google search that you need to be aware of.

Section 1 - As seen in the picture below, you will note that there are 2 different types of ads that show up. The first

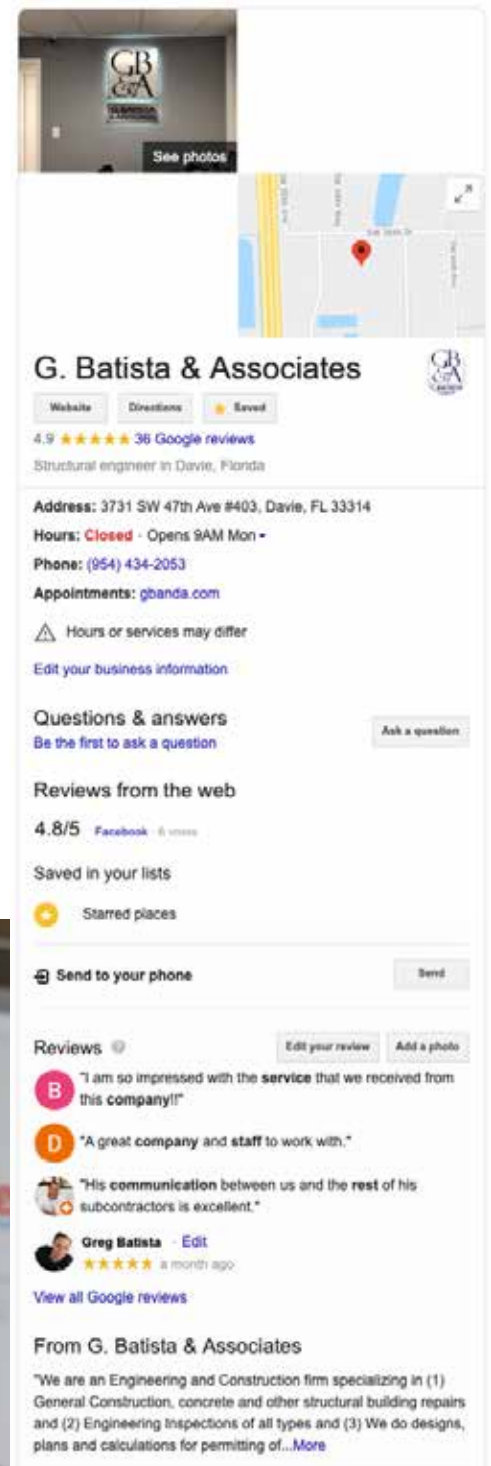
The screenshot shows a Google search results page for the query "40 year recertification companies". The page is divided into two main sections, highlighted with red boxes and labeled on the left:

- AD SECTION:** This section contains three paid advertisements. The first is for "Hilman Engineering - 40 Year Inspections", which describes a full-service Florida Engineering Consulting Firm. The second is for "40 Year Recertification Firm - Specialized at 40 year recerts", mentioning a 7-day report turnaround and 99% passing rate. The third is for "40 Year Recertifications - 100% Passing Rate - Call Now", offering a best price guarantee.
- ORGANIC SEARCH SECTION:** This section contains several organic search results. The first is from "thefirstgroup.us" titled "40 Year Recertification Inspection in Miami Dade Broward FL". Other results include "40 YEAR RECERTIFICATION Inspections Miami-Dade ...", "40 Year Recertification - G. Batista & Associates", "40 Year Recertification Inspection | Miami, Broward, West ...", "40-50 Year Certification. South Florida, Palm Beach, Miami ...", and "Get a 40/50 Year Recertification - Miami".

is the “Ad” section where companies pay Google to feature their company at the very top of the page. You will note that my company shows up at the top where it says “Ad”. This means that every time that someone clicks on our link, it will take you directly to our website and Google will charge me for that click. Any company that has money to pay Google to appear on the top of the page can appear at the very top. You should consider this in your election process because companies that have just opened its doors and have little or no experience could easily buy an ad to appear at the top of the page.

Section 2 - You will also see that there are other companies in the list that do not have the word “Ad” next to it. These are what we call “organic” Google answers because typically established companies that have a business history and are in compliance with the Google requirements for scoring high, will get the top spots on the page. You will note that my company (www.askgbatista.com) also appears as an organic result.

Section 3 – Typically, some companies are highlighted at the right side of the screen where there is a lot more information on that company. Companies that appear in this section must apply for that spot and confirm that they are an established firm. Here, you can immediately see pictures of the firm and most importantly, reviews and the number of stars that the company has accumulated. Note that my company can appear in searches as shown in the picture. You’ll note that my company has many excellent reviews. 



NOW THAT I HAVE SOME CANDIDATES, HOW DO I CHOOSE ONE?

Most people that don't know any better, just pick up the phone and contact the first Owner's Representative that they see on Google or one that someone refers to them. There isn't anything inherently wrong with that except when it comes time to making an actual choice, it could be a difficult task because you will inevitably have to compare the different proposals on an apples-to-apples basis, and when you are dealing with Engineering and Construction, this is more complicated than it seems on the surface; so just because one Owner's Representative charges you less money, does not mean that it will cost you less in the long run. Remember that Owner's Representative scopes of work are basically chosen from a wide menu of services, and these services can vary widely from proposal to proposal and thus the price could vary quite significantly. We will discuss this "menu of services" in more detail in the "The Contract" chapter. Additionally, the vast majority of condo boards are required to obtain a minimum of 3 bids when hiring professional services. And like in every business, all proposals are not built the same. Some proposals leave things out on purpose and others don't. At the end of the day, it's always up to the buyer to make sure that his own interests are being protected and hiring a lawyer should always be on the table if you deem that a proposal is too "legalistic".

There are many other considerations one should keep in mind when looking to hire an Owner's Representative such as:

- Does the Owner's Representative have Errors and Omissions insurance?
- Is the Owner's Representative experienced enough and has a list of past clients he can show you?

- Does he have a staff that can do the work if the main person is not available?
- Does the person have any past complaints levied against any license they may hold at the Department of Business and Professional Regulation in Tallahassee?
- Does the person or company have any past or pending lawsuits?



DID YOU KNOW?

Producing an RFP (Request for Proposal) is by far the most efficient and effective way to hire a professional where the different proposals are laid out on an apples-to-apples basis thus ensuring you are making the most informed decision

So, you see that just calling some random Owner's Representative firms and obtaining a proposal could become a complicated endeavor. There is, however, a structured way to find out who the best Owner's Representative is for the job. It's through the proper use of the RFP, or a "Request for a Proposal". With a Request for Proposal, you are the one that will tell the Owner's Representatives what the scope of the work entails, how you want the proposals written, what services you expect to receive, method of payment, what services you don't need, the minimum requirements needed, the time and date that you expect the proposals, among other key items. The following page shows a sample of a very simplified, 1-page RFP for a very narrow scope of work. Most RFP's are 2 to 3 pages long for more complicated projects.

R EQUEST
F O R
P R OPOSAL



RFP's are as varied as there are projects, but if you call our office, we can send you the MS-Word version for free so that you do not have to recreate it from scratch and you can revise it to fit your needs – Just ask G. Batista. If your project is more complicated and requires a more detailed and comprehensive RFP, we can also provide you with a customized RFP for a minimal cost. We can even provide one for free if we are given the opportunity to bid on the project.

**Just ask
G. BATISTA**

Parts of the RFP (Request for Proposal) Explained

The RFP is comprised mainly of 5 parts:

1. Background
2. Requirements
3. Fee and Payment terms
4. References
5. Contacts
6. Due Date and time

Background. The “Background” is merely giving a little bit of the back story to the bidding Owner’s Representative so that they are in tune with the realities behind the project and thus can provide a more realistic proposal given your specific needs. Any good Owner’s Representative will want to know the reasons behind why these renovations are being done, such as “it was an overdue beautification project that all the Owners wanted”, or “The Building Department issued a citation because the work poses a threat to the safety of the residents”.

Requirements. This section is where the Owner’s Representative will understand exactly what is expected of them and what they are to include (and not include) in their proposal. The more information you provide the Owner’s Representative about the details of the scope of work, the more precise your proposals will be and the better you will be able to compare against your other proposals. In the example provided in this guide, you will also let the Owner’s Representative know that in addition to providing assistance during the design phase of the job, he must also provide assistance to the Owner during the construction in the form of inspections, meeting attendance, quality control, managing safely, enforcing the project schedule, managing the finances such as approving change orders and payment applications, etc. Many Owner’s Representative may not include some of these items because they are afraid that their price will be too high compared to the other Owner’s Representatives.

There are other requirements which are extremely important such as expecting the Owner’s Representative to have “Errors and Omissions Insurance” or what we call in the industry E&O Insurance. E&O insurance is a kind of specialized liability protection against losses not covered by traditional liability insurance. It protects the Owner’s Representative from claims if you (or your condominium) sue for negligent acts, errors or omissions committed

during business activities that result in a financial loss. We Owner’s Representatives are human and at times make mistakes, and unfortunately these mistakes translate to financial losses for the Owners.

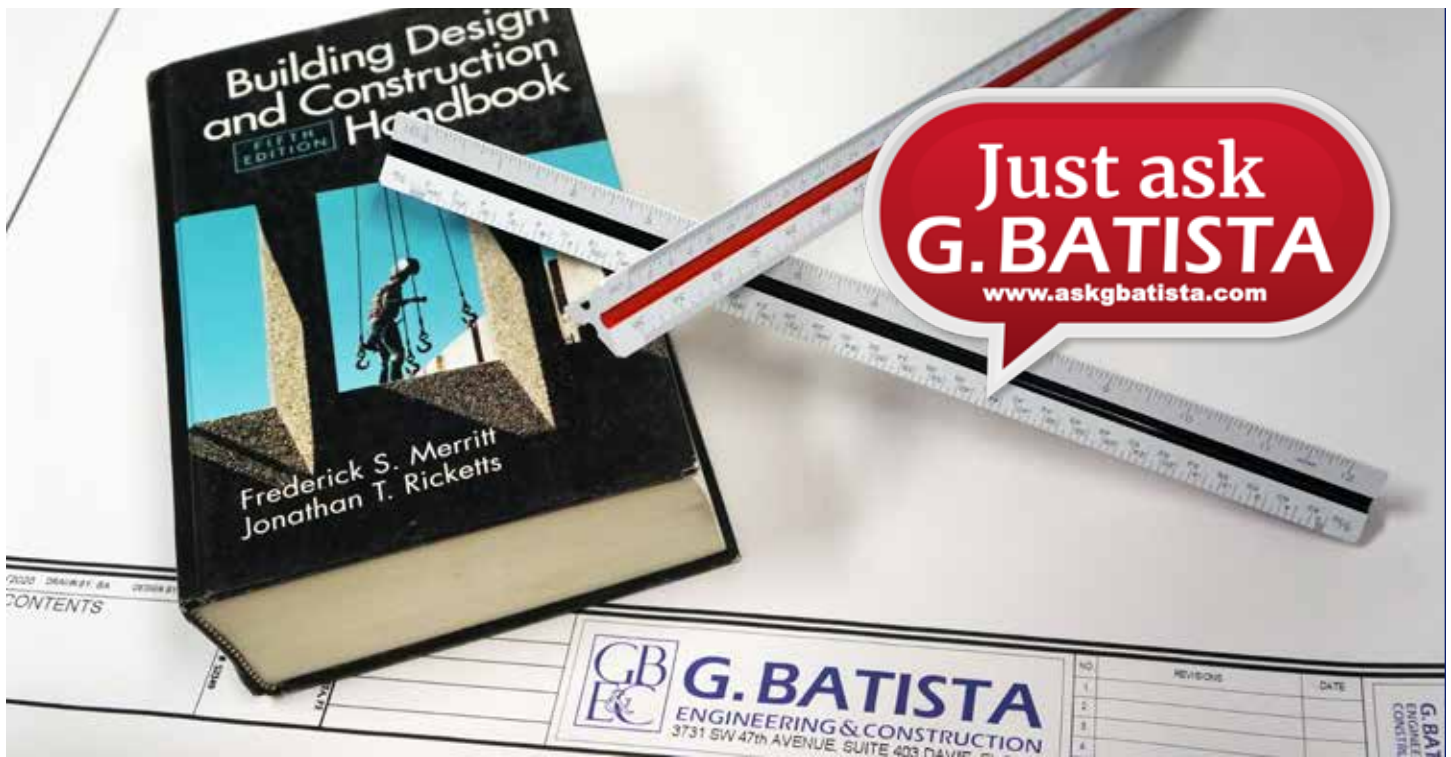
This type of insurance can come in handy during difficult times on the project. If your Owner’s Representative does not have E&O Insurance, you can ask them why. It is my experience that most people that provide Owner’s Representative services do not hold E&O insurance, but if they do, then that is definitely a good sign. I’m not saying that Owner’s Representative without an E&O Insurance are bad professionals. It’s just an

added protection that may differentiate some firms from others. The typical coverage for a small-to-medium firm is \$1,000,000 per occurrence.

Fee and Payment Terms. Since Engineering and Construction projects can be very complicated, it thus follows that charging for these services could also be complicated. Many Owner’s Representative charge on a monthly lump-sum basis, while others charge an hourly rate, and some charge based on a percentage of the total cost of the project. Either way, it can prove difficult to pin down what the cost of an Owner’s Representative will be unless they specifically state a “not-to-exceed” lump sum in their contract. Some Owner’s Representatives charge for reimbursable costs such as mailings, plan reproductions, and travel time. Furthermore, if an incompetent or difficult Contractor is hired, this makes the Owner’s Representative’s life much more difficult and thus have to spend more time on the project than previously estimated. There are many reasons why an Owner’s Representative will include hourly rates (in addition to lump-sum items) in his proposal, and each Owner’s Representative will have his own way of adding these fees and payment terms into his proposal.

At the end of the day, it will be up to the Owner to sift through the proposals and figure out a way to compare fees and payment terms on an apples-to-apples basis. However, if you let the bidding Owner’s Representatives know upfront what your expectations are, then your work is drastically simplified. This is where the RFP comes in handy. You will tell your bidding Owner’s Representatives upfront how they should structure their fees so you can easily compare the different bids to one another.

Remember that an Owner’s Representative’s scope of work is basically chosen from a wide menu of services, and these services can vary widely from proposal to proposal and thus the price could vary quite significantly. We will discuss this “menu of services” in more detail in the “The Contracts” chapter later on in this guide.



In conclusion, the RFP is a very powerful tool to obtain proposals that will be easy to analyze your bids on an apples-to-apples basis and save you, the Owner, a ton of time and frustration in the process. Furthermore, all the bidding Owner's Representatives will be on the same page and bid on the same written scope of work and therefore the chances of misunderstandings occurring will be kept at a minimum.

References. Although references are not a complete guarantee of success, they are a great way to know a little more about your Owner's Representative. It will suffice to ask your bidders to provide you with 2 names and numbers of past clients that have performed a similar scope of work in the past. Granted, Owner's Representatives (as any other business person) will only provide references of people that they have satisfied in their work, so many people take the reference stamp of approval with a grain of salt.

Contacts. Your bidders must know who to send their bids to. The person who receives the bids must be someone who is trustworthy because the receipt of bids is susceptible to tampering and fraud. I have always found

that the most fool-proof way to receive bids is by asking the bidders to submit their RFP's in SEALED envelopes to only be opened when all those in charge are present (such as a Condominium Board meeting). The contact information should be concise so that there are no misunderstandings as to who and where the proposals are to be sent.

Due Date and Time. Having done hundreds of RFP's (both creating the RFP as well as replying to them), this is the part that the vast majority of the bidders look at first because they must make a snap-decision on whether they will invest their time to read, prepare for, understand, and hand in a reply to an RFP. This part must be underlined or in bold print. If too little time is allotted to the task, then you may find it difficult to find an Owner's Representative to fulfill your timing requirements. Typically, you should give your Engineers 3 weeks (from the time you send them the RFP)

to provide a proposal for a smaller project and a maximum of 6 weeks for a larger, more complicated project. You should also provide a time frame for them to call or email with any questions. 

At the end of the day, it will be up to the Owner to sift through the proposals and figure out a way to compare fees and payment terms on an apples-to-apples basis. However, if you let the Owners Representatives know upfront what your expectations are, then your work is drastically simplified. This is where the RFP comes in handy.

Sample RFP (Request for Proposal)

FOR ILLUSTRATIVE PURPOSES ONLY

REQUEST FOR PROPOSAL FOR OWNERS REPRESENTATIVE SERVICES

Florida Condominium Tower 500

Background – The Florida Condominium Tower 500 (further “OWNER”) is located at 1234 17th Street, Sunny Isles Beach, FL and is a 5-Story, 20-unit condominium preparing to go through major repairs required by the results of our 40 year recertification inspection. We are looking to hire an Owner’s Representative by the end of March to guide us through the pre-design, design, and construction phases. We request a proposal from your firm given the following requirements.

Requirements - OWNER is requesting the interested Owner’s Representative companies (further “OWNERS REPRESENTATIVE”) to submit the corresponding proposal for Owners Representative for the following Scope of Work:

The scope of the Engineering work is to provide the following services:

Assisting and consulting with the Project Team on behalf of, and as an authorized representative of, the Owner with regard to (1) developing the Project design, plans and specifications; (2) developing and recommending the Project schedule; (3) reviewing and providing value analysis with regard to the Project programming, schematic design, design development and construction documents for the Work, including, if so directed by the Owner, assistance with LEED certification if applicable; (4) coordinating with the contractor so that they may develop a critical path schedule of the Work including bench-mark dates for the issuance of bids for the Project; (5) assisting in identifying and selecting bidders for the Work of the Project; (6) reviewing, processing, and recommending applications for payment on behalf of, and as the authorized representative of, the Owner; (7) reviewing, processing and recommending requests for information (RFI’s), change orders (CO’s) and progress reports (PR’s), on behalf of, and as the authorized representative of, the Owner; (8) reviewing Project close-out procedures and punch-list items; (9) reviewing the completion of warranty work required of the various contractors.

The OWNERS REPRESENTATIVE shall also possess (1) Errors and Omissions insurance for \$1MM, (2) have 5 years minimum in business, (3) an established office with at least 4 full-time employees, (4) no past record of lawsuits within the past 5 years, and (5) no complaints with the Florida Board of Professional Engineers within the past 5 years.

Fee and Payments Terms – Fee should be expressed as (a) a fixed Lump-Sum for an equivalent of 20 hours of service during the pre-design and design phases and (b) a monthly Lump-Sum fixed price during the construction phase for the above-mentioned scope of services. The OWNERS REPRESENTATIVE shall also provide a fixed hourly price should any work arise that is beyond this scope of work. Travel time will not be considered in the hourly work. Reimbursable costs will not be allowed. Owner will pay in 30 days after approval of the bill by the Board.

References- The OWNERS REPRESENTATIVE shall provide with their proposal 3 references (name, number of contact and description of project) .

All Proposals should be hand-delivered in a sealed envelope to the President of the Board of Directors of Florida Condominium: Mr. John Doe at JohnDoe@Condo.com or call (954)123-4567.

If you have any questions or want to visit the site prior to providing a proposal, please contact the Property Manager Jane Doe JaneDoe@Condo.com or call (847)814-6069. The cut-off date for questions is January 1, 2029.

DUE DATE : Proposals are due by 4pm on January 8, 2029. Late proposals will not be opened or accepted.

CHOOSING THE RIGHT OWNER'S REPRESENTATIVE

You found your bidders, you did your RFP and sent it out. Now you received your proposals. If everyone did what they were supposed to and followed the instructions on the RFP, then it should not be that difficult to cull through the proposals and decide on who to choose. It is beyond the scope of this guide to go through the almost infinite number of nuances and possible differences in all of the proposals. But rest assured that in following these guidelines, you have definitely set yourself up for success. The only advice that I have yet to give is that you (or your Owner's group) interview one or more of the candidates in person so that you can see how they communicate and what kind of person they are. If your candidate looks good on paper and the price seems reasonable, but then, upon meeting in person, they lack basic communication skills or does not carry themselves with an air of authority, then that is definitely not a good sign since your Owner's Representative must have strong leadership qualities and be a good communicator in order to effectively carry out their duties. 



THE CONTRACT

Once you have decided on who your Owner's Representative will be, then there is the matter of the Contract that is to be used. Most of the time, the Owner's Representative firm will use their own in-house contract and then the Owners will review it and get it executed. I highly recommend that you hire an attorney to review the contract prior to you signing it.

To finalize this guide, I thought that it would be a good idea to review in detail the more salient services that an Owner's Representative will provide in a contract. I have mentioned on several occasions throughout this guide the fact that Owner's Representative services can be viewed as a "Menu of Services" where you can pick and choose what services you want and those that you don't want.

Many professional services are straightforward, such as those provided by an Appraiser when you want them to

provide you with the market value of your property. Owner's Representative services, on the other hand, come in all sorts of flavors and it is much like ordering off of a Cheesecake Factory menu. Below I will enumerate some of the more basic services that an Owner's Representative will provide along with a brief explanation and its importance.

Assist in the Pre-Design or Design Phase (OR's Involvement - Moderately Important)

Your Owner's Representative should be an experienced construction professional, but not necessarily be an experienced designer, architect, or Engineer. Although there is some value to the design team to have an experienced contractor on board that will provide feedback to the Owner (such as budgeting), it is not something that is of utmost importance. Also, if during construction there are issues that may be due to a design flaw, it certainly helps if your Owner's Representative has a design or engineering background.

Assist Owner in choosing the contractor to do the work (OR's Involvement - Very Important)

The bidding-out and hiring of a contractor is a very complex endeavor especially on larger and intricate projects. If you have someone in your Owners circle (a resident, Board Member, etc.) that has substantial construction experience, then you could save yourself a few dollars by using them. However, proceed with caution since there are many tricks that contractors use in providing proposals, executing contracts and performing the work.

The Project Schedule – Initial Set-up (OR's Involvement - Not that important)

The project schedule is a table, graph, spreadsheet or any other graphical representation that shows the different tasks, goals, milestones etc. and how they

interact with each other so that whoever studies the Project Schedule will have a very good idea of how the contractor plans to build the project and the time frames of each task. See the picture of a sample Project Schedule that is typically used on construction projects. It is my opinion that your contractor be the one to create the Project Schedule. After all, they are the ones that have created it and “sold” themselves as the best contractor by offering you this important information. By interjecting an Owner's Representative into the picture to assist the contractor, you are theoretically “contaminating” the contractors thought process. At no point in time do you want your contractor to come back and say that they cannot attain a certain milestone because it was the Owner's Representative that inserted their opinion.



The above picture represents a very simplified Project Schedule in the form of a Gantt Chart

The Project Schedule – Enforcement (Owner’s Rep Involvement - Extremely important)

A Project Schedule remains just a piece of paper unless there is a well thought-out plan behind it and also a manner in which it will be enforced. If you, as the Owner, have established that the finish date of the project is of utmost importance, then you must establish a plan whereby there will be a daily (or weekly) monitoring of where the construction is at, versus what the reality is in the field. Your Owner’s Representative is the go-to person that will fill that role of enforcer. Your Owner’s Representative will identify the issue, confront the contractor, and hopefully institute corrective action with the contractor so that the schedule is no longer adversely affected. Seldom will an Architect or Engineer (unless they are explicitly required to, as per their contract) get involved in a Project Schedule battle with your contractor.

Reviewing, Processing and Approving Applications for Payment (OR’s Involvement - Very Important)

“Applications for Payment” is just a fancy construction word for “Invoice”. If your project value is a substantial dollar amount and involves several trades (Electrician, Roofer, Plumber, etc.), then chances are that you will have to contend with your contractor providing you with a “Application for Payment” at the end of each month. There are many ways that a contractor can ask for his money, but this “Application for Payment” process is a traditional and tried-and-true way for contractors to bill for their services. A competent Owner’s Representative will likely agree with me that for a complex, relatively large project, that the contractor should submit his bills as such. Without going into a whole lot of detail, the Payment Applications establish upfront the amounts that are going to be paid in future billings so that your contractors can bill based on a percentage complete of these amounts. This whole complicated process of establishing the pay application process up front and maintaining it is a job best left for someone that is on the Owner’s side of the table such as your Owner’s Representative. Under some circumstances, your Architect or Engineer may be that person if their contract explicitly states that they are responsible for reviewing and approving the bill. This is very important because you want to make sure that your contractor is not charging more than what he should, or worse yet, charging for work that was not performed, or was not done correctly. Additionally, you do not want your contractor to get “ahead of you” by charging a lot of money at the beginning of the job and thus have “financial leverage” over you in case the job goes downhill.

Change Orders (OR’s Involvement - Extremely important)

The dreaded “Change Orders”. Change Orders have a very bad reputation because it implies that the project will be more expensive and that the Contractor is making out like a bandit. Nothing could be further from the truth if there are decent, competent, and honest professionals comprising the design and construction team. But then again, we are all human and we are all in this industry to make money and there will be times when the scope of work will need to be amended because there are unforeseen conditions or the Owner desires certain things to be added to the scope of work. Either way, it is your Owner’s Representative who will make sure that first, a change order is even warranted, and second, if the price from the contractor is reasonable. Contractors should know in the very beginning of a project that there is a competent Owner’s Representative that will look out for the Owner, particularly with anything having to do with additional dollars and cents that were not envisioned in the original scope of work.

Meetings and Progress Reports (OR’s Involvement - Extremely important)

Any construction veteran will tell you that communication is key for the success of any medium-to-large construction project. There are many players involved from contractors, subcontractors, vendors and suppliers, insurances and bonds people, Owners, Architects, Engineers, City Inspectors and Building Officials, etc. Each one of these entities has a role to fulfill depending on what their contract states and what the requirements are under Florida Law (and the Florida Building Code). If not managed correctly, then you are well on your way to having major problems on your project that can cost you dearly. One of the more effective ways to properly manage a project is to hold periodic meetings with the main stakeholder’s present. There must be one person who is responsible to not only compose the agenda, but preside over the meeting and provide the subsequent meeting minutes to all interested parties. This takes substantial construction experience and significant communication and leadership skills. In order for your Owner’s Representative to properly perform this task, it will require that they be very involved in the project and expend a significant amount of time to intimately understand what is going on in the project. Do not expect for your Owner’s Representative to take on the duty of attending and presiding over periodic meetings if you will only pay for a limited time for the Owner’s Representative to familiarize himself with the project. Thus, it will be a good idea to establish that conversation with the Owner’s Representative up front to manage expectations.

Project Closeout - (OR's Involvement – Very Important, but not critical)

What is “Project Closeout”? Project Closeout is the process where the contractor, at the end of the job, provides the Owner with items such as written warranties, equipment manuals, evidence that the permits have been closed, and any other document that the Owner will need before the contractor leaves the site. Just the warranty portion is potentially complicated where there are many types of warranties for different items such as paint, air conditioning equipment, faucets, lights, etc. Your Owner's Representative will not only ensure that you get all your warranties in line, but make certain that you get your 20 year paint warranty that provide a “no dollar limit” type that includes 5 year labor, instead of a 5 year warranty that does not include labor and is capped at \$1,000. Project Closeout is a vital part of a project that many Owners overlook.

Punchlist - (OR's Involvement – Somewhat important)

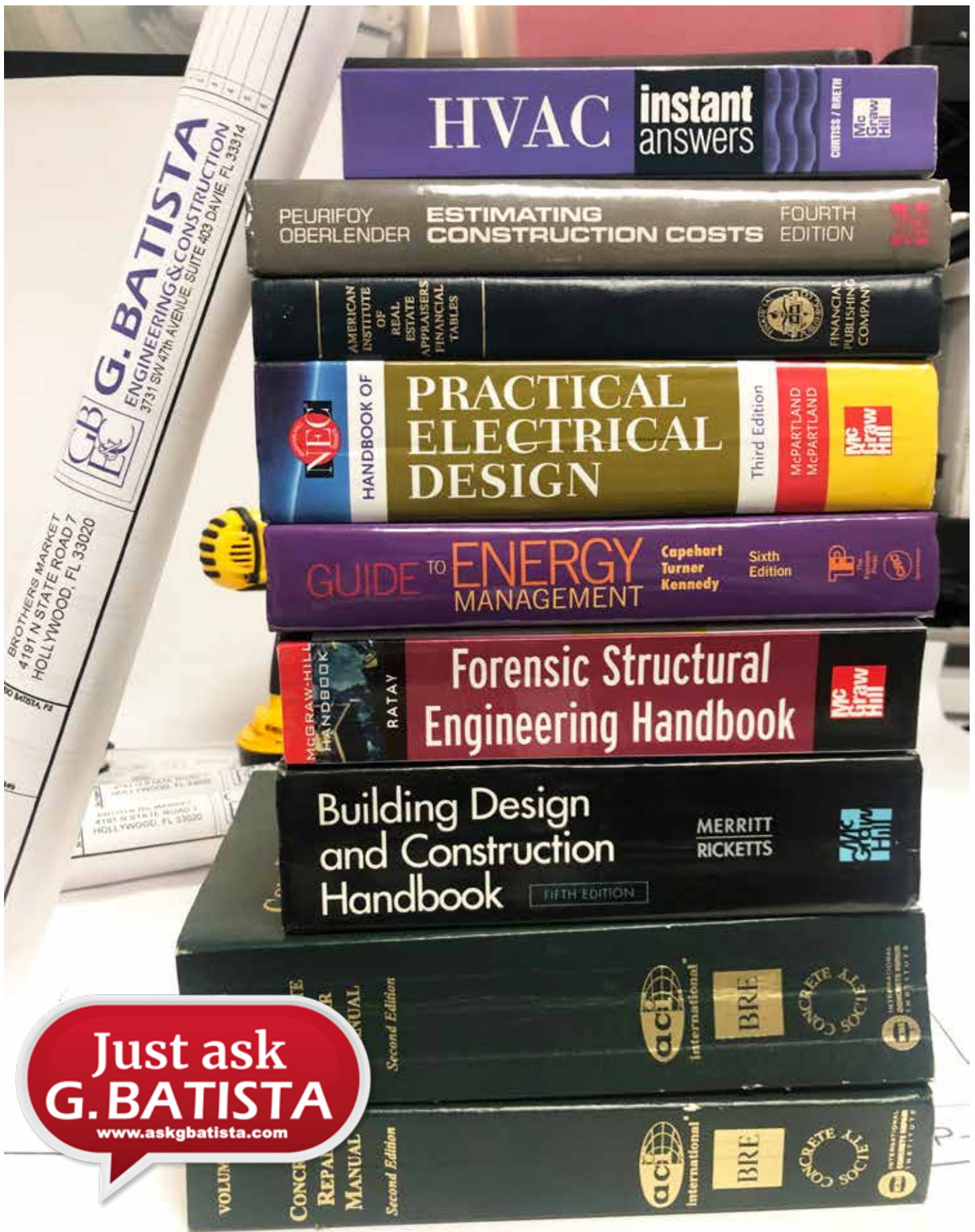
A “punchlist” is a list that contains items for the contractor to fix before he finishes and leaves the project. Many times, final payments are held up until the punchlist is completed to the Owner's satisfaction. It takes an experienced construction professional to perform a detailed inspection that will point out items that were not performed as per the plans, were lacking in quality, did not comply with the Florida Building Code, or was not done as per the contract documents. At times, it is your designer that will

do the punchlist, but they will only do it if it is specifically called out in their contract. If it is not in the designers contract, then you will need an expert such as your Owner's Representative to perform this duty if the project is of such size and complexity that it would be warranted.

Answering RFI's or Requests for Information- (OR's Involvement – Somewhat important)

RFI stands for “Request for Information” and it is an official document that asks a question of the Owner and/or the Designers for the project. At times, these questions are significant where the answer to the question could mean that the Owner may have to incur in additional costs. For example, if the contractor has studied the plans and comes up with the following question – “We think that there should be garbage disposal in this high-end kitchen and it is not shown in the plans. Should we add it or not?”. If the Owner says that there should be an outlet, and the designer agrees, then it is up to the contractor to provide a change order for the additional cost and it is up to the designer to update his electrical and architectural plans to reflect this change. Your Owner's Representative will perform the coordination that is required to identify the problem, help in answering the question, ensuring the Owner is not being over-charged for the change order, and ensuring that the designer adds the change to the plans. In most instances, it is your designer who actually answers the questions (RFI's), but the implications and repercussions of the answers to these questions is something that an Owner's Representative can handle. 





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