

BUFFALO-WESTERN NEW YORK CHAPTER of the CONSTRUCTION SPECIFICATIONS INSTITUTE

Construction Specifications Institute, Inc.: www.csiresources.org

Northeast Region CSI: www.nercsi.com

Buffalo/WNY Chapter: www.csibwny.com

September 2026

Upcoming Events

Tour of Michigan Street Baptist Church

Event Type: Tour of recently-renovated historic structure followed by dinner

Date and Time: September 22, 2026, meet at 4:45 pm. Dinner at approx. 6:15 pm

Location: Michigan St. Baptist Church, 511 Michigan Street, Buffalo, NY 14203. Dinner at Riverworks, 359 Ganson St, Buffalo NY 14203



Presenter: Gwen A. Howard, AIA, Azar Design

Accreditation: 1.0 AIA LU (non-HSW)

Description: This event features a tour of the historic Michigan Street Baptist Church and its surrounding site. Led by Preservation Architect Gwen Howard, AIA, and including other members of the architect's project team, the tour will highlight this important landmark and the process that the design team used over a series of restoration and stabilization projects. Participants will hear about the building's history and significance both nationally and within the Western New York Community, and the challenges and successes related to the preservation of this fragile national landmark.

Continued on Page 4.

Inside this issue:

Editorial: A Salute to Laborers

News and Events (continued)

Court Decision in Landmark CSI v. Zerodocs case

Landmark Structures: The Statue of Liberty, New York Harbor

Landmark Structures: Buffalo's Liberty Building

Giving Notice: What It Is and How to Do It

Sponsorship Flyer for CSI Buffalo Ski Day 2027

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The Scope

Newsletter of CSI's Buffalo-Western New York Chapter

The Scope is published approximately seven times per year, typically in September, October, December, January, February, April, and June, on or around the first day of the month. Submittals of articles and information of general interest to CSI's members and the design and construction community of Western New York, is always welcome. Submittals for this newsletter are due by the 15th of the previous month (approximately two weeks before publication). Please submit articles, information, and requests to the Editor:

Kevin O'Beirne

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Each issue of *The Scope* reaches approximately 650 people in the Buffalo-Western New York design and construction community, across a variety of disciplinary areas. An ad costs \$100 per year. Contact the Editor for additional information.

Editorial

Saluting Construction Laborers

By Kevin O'Beirne

This issue was published shortly after Labor Day 2026, so, therefore, it seems like a good opportunity to salute the laborers who help make every construction project happen.

Labor unions—and the idea of a “labor day” holiday—arose in the second half of the Nineteenth Century. It may be difficult for Twenty-first Century people to fully appreciate how abysmal working conditions were in many industries in the second half of the 1800s through the early 1900s, and the often martial and violent approach management used in attempting to suppress the labor movement. In the 1870s and 1880s, “Labor Day” was promoted by the Central Labor Union and the Knights of Labor. In 1887, Oregon was the first US state to make it an official public holiday. Labor Day became a US federal holiday in 1894.

Many skills and types of labor are needed to implement a modern construction project, from design professionals, project managers, site su-



perintendents and foreman, skilled labor (including ironworkers, carpenters, plumbers, steamfitters, electricians, and others, equipment operators, and drivers, among others. Omitted from the foregoing list, but certainly not forgotten, are the common laborers needed on every construction project. Laborers perform a huge variety of tasks, many of which require special skills. Among other things, laborers help keep the construction site clean and orderly, move items around the site as necessary, support skilled tradesman, and perform pretty

much every other task not assigned to someone else with a specialty. If it was not for laborers, simply put, construction would not happen.

Laborers are often among the lower-paid workers at a construction project. They are often the workers with the unenviable tasks of working in the rain, shoveling up snow at the site, working in the



excavation in dirt and mud up over their ankles as the backhoe places granular fill near them, and a host of other tasks that are, frankly put, not particularly envied by most visitors to the construction site. Somebody should say, “thank you,” to laborers once in a while.

In some instances laborers were born in other countries. Since time immemorial, some of the least-pleasant jobs at a construction site have been performed by workers from other nations and cultures. Whether Irish immigrants, formerly enslaved people, and Chinese, laborers performed most of the work in building the nation's first trans-continental railroad. Today, Hispanic laborers are common at many construction sites, such as the six men who died when the *MV Dali* struck and destroyed the Francis Scott Key Bridge in Baltimore on March 26, 2024. For hundreds of years, immigrant laborers have been many of the “hands that built America” (to paraphrase a 2002 song by the Irish rock band, U2).

The next time you visit a construction site, consider taking a minute to ask the laborers how they are doing, and thank them for their work in constructing our nation's buildings and infrastructure.

[End]

NEWS AND EVENTS

Continued from Page 1

Details of the restoration will be discussed and reviewed during the tour.

Built between 1845 and 1849 by Buffalo's African American community, the Michigan Street Baptist Church served as a key Underground Railroad stop and became a center for abolition, civil rights, and Black community life in Buffalo. A number of mid-Nineteenth Century buildings in Western New York have claim to be part of the Underground Railroad, but the Michigan Street Baptist Church is among the much smaller number of buildings whose Underground Railroad providence is well-documented.

Following the tour, a dinner at Riverworks will be held for attendees. Each participant will receive two tickets for Beer, Wine or non-alcoholic fountain beverages. Food will be wings, pizza, poutine (French fries, cheese curds, and hot brown gravy), and carnitas nachos. Copious quantities of napkins will be available.

This event is sponsored by **Imetco**, which has financially contributed to provide an affordable price for attendees.



Cost: Members— \$10 per person + guest, Non-Members—\$20 per person

Reservations Due By: September 17, 2026

To Make Reservations: [Click Here](#)

For Additional Information Contact: Brad Vailancourt, 716-883-4400, member-ship@csibwny.com

CSI National Conference

Event Type: Educational seminars, exhibit hall, and CSI-National annual meeting.

Date and Time: October 7-9, 2026.

Location: Hyatt Regency Phoenix, 122 N 2nd St., Phoenix, AZ 85004.

Accreditation: Multiple presentations accredited for AIA LU HSW.

Description: CSI's annual national conference is in Phoenix AZ. The conference includes multiple days of educational sessions, exhibit hall, banquets, awards ceremony, and networking opportunities. For additional information, see CSINationalConference.org.

Cost: See Conference website.

Reservations Due By: See Conference website.

To Make Reservations: Registration is open, via the conference website.

WCNY Glass and Glazing Expo

Event Type: Day-long conference/seminar/trade show

Date and Time: October 23, 2026, 7:30 am—3:30 pm

Location: 585 Aero Drive, Cheektowaga NY

Accreditation: Up to 5.0 AIA LUs

Description: See website, linked below.

Cost: None (free)

To Make Reservations: [Click Here](#)

For Additional Information Contact: See event website, linked above.

NEWS AND EVENTS

Continued from page 4

CSI Buffalo-WNY Chapter Holiday Dinner

Event Type: Holiday dinner (no presentation)

Date and Time: December 3 or 10, 2026, (final date and time TBA).

Location: TBD

Description: More information is forthcoming.

Cost: TBD

For Additional Information Contact: Bob Rumpl, rrumpl@trautmanassoc.com.

Architect's Ski Day 2027

Event Type: Skiing/networking/supplier exhibits

Date and Time: February 5, 2027, 8:00 am—4:00 pm.

Location: Holiday Valley Ski Resort, Holiday Valley Lodge (Main Lodge, second floor), 6657 Holiday Valley Road, Ellicottville NY 14731



Accreditation: none

Description: See sponsorship flyer at end of this issue. Additional information is forthcoming in the October/November issue of this newsletter.

Cost: TBA

To Make Reservations: Details TBA. Registration will open on or around October 12, 2026. Early registration (reduced rates) will close on or around December 11, 2026. Last day to register is anticipated to be January 8, 2027.

For Additional Information Contact: Brad Vailancourt, membership@csibwny.com

Summary Judgement in Landmark Case Goes Against CSI

The *Construction Specifications Institute, Incorporated v. Zerodocs.com, Inc.*, No. 8:25-cv-00475 was a landmark case that concluded on September 1, 2026, with the judge's decision for summary judgement in favor of the defendant, Zerodocs. Summary judgment is a court ruling, without a trial, when material facts are not disputed and one party is entitled to judgment as a matter of law. As of September 15, 2026, CSI had not yet publicly commented on whether it will appeal the judge's decision. However, CSI issued a public statement saying that it "respectfully disagrees" with the ruling and is "committed to taking the appropriate steps to protect its intellectual property."

By bringing the case, the plaintiff, CSI, sought relief against the defendant, alleging violation of copyright and misuse of CSI's intellectual property, relative to *MasterFormat*. The judge's decision may have far-reaching implications, potentially even extending to the enforceability of CSI's license agreement for *MasterFormat*.

The case was closely watched by many in the design and legal professions, especially since CSI published the recent update of *MasterFormat* in March 2026 behind a fairly expensive paywall known as The Dynamic Standards. An integral component of CSI's strategy to monetize *MasterFormat*, *Uniformat*, and *OmniClass* by an annual subscription, was a new and, as some design professionals termed it, drastic licensing agreement. While the case did not specifically address CSI's current licensing agreement for *MasterFormat*, many people observing the case appeared to believe that its outcome would ultimately serve as a type of "thumbs up" or "thumbs down" on the new

NEWS AND EVENTS

Continued from page 5

licensing agreement and The Dynamic Standards. CSI's new approach to licensing and delivering its organizational formats attracted considerable attention, comment, and criticism from the design and construction community.

The key ruling was issued following the parties' cross-motions for summary judgment, which were heard on April 8, 2026, in the U.S. District Court for the Central District of California before Judge John W. Holcomb.

In *CSI v. Zerodocs.com*, CSI alleged that Zerodocs infringed copyrights and trademarks associated with CSI's well-known *MasterFormat*, which organizes construction information through standardized numerical classifications and titles. CSI contended that Zerodocs' competing specification platform improperly copied protected elements of *MasterFormat* and created confusion regarding CSI's intellectual property rights.

The dispute centered on whether the numerical codes, section titles, and organizational structure used in *MasterFormat* were entitled to copyright protection and, if so, whether Zerodocs had copied protectable expression. During the litigation, the parties filed competing motions for summary judgment. Zerodocs argued that the elements at issue were functional industry standards, generic terminology, short phrases, or material that predated the specific copyrighted version relied upon by CSI. Zerodocs further contended that copyright law does not protect ideas, systems, methods of operation, or purely functional classification schemes.

According to publicly available descriptions of

the summary judgment arguments, the court's ruling favored Zerodocs on the core infringement issues. The decision reflected longstanding copyright principles that limit protection for functional systems and standard industry terminology. The court found insufficient evidence that Zerodocs copied protectable original expression from CSI's copyrighted work and rejected CSI's attempts to extend copyright protection to the underlying classification methodology. Trademark-related claims had already been narrowed earlier in the case, including dismissal of CSI's trademark dilution claim.

The ruling was viewed as significant for the architecture, engineering, and construction industry because it addressed the extent to which proprietary classification systems may be protected under intellectual property law.

[End]



Landmark Structures

The Statue of Liberty, Liberty Island, New York Harbor

By Kevin O'Beirne with a lot of help from "Staff Writer AI"

Editor's Note: While much of the content of this periodical's "Landmark Structures" column typically addresses well-known buildings and structures in the Buffalo region, we have always reserved the right to tell the stories of any building or structure that it pleases our editorial staff to contemplate.

Therefore, in celebration of the 250th Anniversary of the Declaration of Independence, it seemed proper to dedicate this month's "Landmarks Structures" column to the Statue of Liberty. However, because seemingly everything has some type of Western New York connection, this main article is followed by a shorter description of Buffalo's Liberty Building.

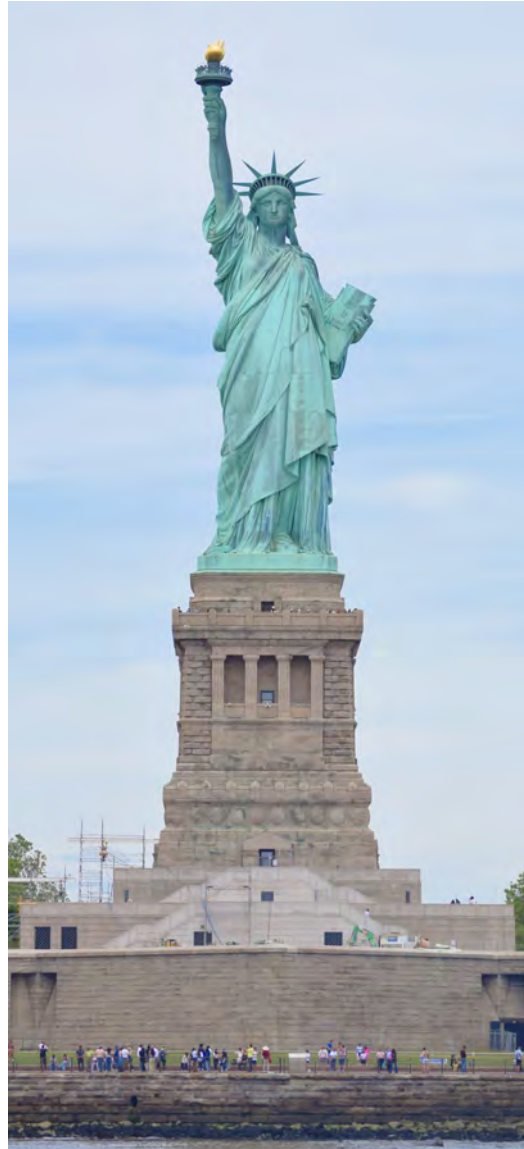
The Statue of Liberty rises from Liberty Island in New York Harbor as one of the most recognizable monuments in the world, a work of art, engineering, and political symbolism that has come to represent freedom, democracy, and opportunity. Officially titled *Liberty Enlightening the World*, the monument was presented by the people of France to the United States as a commemorative gift celebrating the endurance of American republican government, the friendship between France and the United States, and the ideals of liberty that both nations claimed to champion. The idea originated in 1865 when French jurist, historian, and abolitionist Édouard de Laboulaye proposed the creation of a monument honoring the approaching centennial of American independence and the preservation of the Union following the Civil War.

The project ultimately became associated with

French sculptor Frédéric Auguste Bartholdi, who transformed Laboulaye's suggestion into a monumental artistic vision. Bartholdi conceived a colossal female figure inspired principally by Libertas, the Roman goddess of freedom. The figure would hold a torch aloft as a symbol of enlightenment and carry a tablet inscribed "JULY IV MDCCLXXVI," the date of the Declaration of Independence. At her feet, broken chains and shackles would symbolize the overthrow of tyranny and the abolition of slavery.

The final design was selected after Bartholdi explored a variety of concepts. Among his most notable earlier proposals was "Egypt Carrying the Light to Asia," a monumental torch-bearing woman intended to stand at the entrance of the Suez Canal in Egypt. That project was rejected because of its cost, but its imagery strongly influenced what later became the Statue of Liberty. Bartholdi refined the concept, replacing the Egyptian peasant woman with a classical representation of liberty. The resulting design possessed greater universal symbolism and fit far more naturally with the monument's political purpose in the United States.

The United States agreed to accept the statue because it was viewed as a powerful diplomatic gesture from France and because its themes resonated with American national identity. The understanding reached by project supporters was that France would finance and construct the statue itself while the United States would provide the site and pay for the pedestal. This arrangement initially proved difficult. Fundraising in both countries lagged, and there were periods when the entire project appeared endangered. The project was originally conceived during the reign of France's



Emperor Napoleon III, who was overthrown in 1870, during the early weeks of the Franco-Prussian War, leaving the succeeding Third Republic to continue the effort. In the United States, in 1885, newspaper publisher Joseph Pulitzer famously launched a nation-wide fundraising campaign that attracted thousands of small donations, helping secure the money necessary for the pedestal.



Selecting the location was also a deliberate decision. The monument was placed on Bedloe's Island, later renamed Liberty Island, at the entrance to New York Harbor. Several considerations influenced this choice. The island occupied a strategic and visually commanding position where ships arriving from the Atlantic would see the monument before entering the harbor. The site already contained Fort Wood, an early nineteenth-century star-shaped military fortification whose masonry structure could help support a massive pedestal. Equally important was the symbolic value of welcoming visitors to the nation's busiest port.

Over time, this location gave the monument an additional meaning not fully anticipated by its founders. Beginning in 1892, Ellis Island, located a short distance north of Liberty Island, became the principal federal immigration processing station for the United States. Millions of immigrants arriving aboard transatlantic steamships passed the Statue of Liberty before reaching Ellis Island. For many newcomers, Lady Liberty represented their first dramatic sight of America and a promise of safety, opportunity, and freedom. The physical proximity

of the monument to Ellis Island permanently linked the two sites in the public imagination.

Construction proceeded in stages. The formal initiative emerged in 1865. Work on the statue began in France in 1875. To increase public awareness and raise funds, Bartholdi displayed the completed arm and torch at the 1876 Centennial Exposition in Philadelphia, where visitors could climb into the torch for a fee. The exhibit became one of the best-known features of the fair and helped generate support for the project.

The statue was completed in Paris, France in 1884. After being disassembled into hundreds of components, it was shipped across the Atlantic in 1885 aboard the French vessel *Isère*, arriving in New York packed in more than 200 crates. Reassembly had to wait until the pedestal was sufficiently advanced.



The Statue of Liberty undergoing its initial assembly in Paris, France, in 1884. This image depicts the statue's original color.

(Source: Wikimedia Commons)

The pedestal was designed by renowned American architect Richard Morris Hunt, one of the most important architects of the Gilded Age. Engineering responsibility for the pedestal rested with General Charles P.

Stone, while the statue's internal structural system was developed by Eiffel and Company under the direction of Alexandre-Gustave Eiffel, later famous for the Eiffel Tower. Liberty Island's subsurface included filled ground and historic fort structures, requiring substantial excavation. Engineers embedded the monument within Fort Wood, creating a nearly solid concrete foundation about 20 feet deep.



Pedestal construction began in the 1880s and took place within the walls of Fort Wood. The exterior design reflected Hunt's Beaux-Arts sensibilities and employed a massive granite-faced masonry structure that gradually tapered upward. Notable architectural features included rusticated stone-

work, monumental proportions, heavy cornices, classical detailing, observation levels, and the integration of the pedestal within the eleven-pointed star configuration of Fort Wood. The pedestal itself rises approximately 154 feet above ground level, while the copper statue above it measures 151 feet 1 inch from the base of the statue to the tip of the torch. The total height from the ground to the torch is approximately 305 feet 1 inch.

In 50 miles per hour winds, the statue can sway about three inches, while the torch can move about five to six inches. During Hurricane Sandy in 2012, the statue was subjected to sustained winds of 90 miles per hour and may have seen gusts of higher velocity. Fortunately, the 2012 hurricane did not damage the monument.

The total project cost is commonly estimated at between \$300,000 and \$600,000 in nineteenth-century dollars, including both statue and pedestal construction, equivalent to many millions of dollars today.

Assembly of the statue atop the completed pedestal proceeded during 1885 and 1886. Workers methodically erected the internal iron framework and attached the copper skin, which had been formed through the repoussé process. The completed monument was formally dedicated on October 28, 1886, during a ceremony presided over by President Grover Cleveland. Therefore, October 2026 represents the 140th anniversary of the statue's



dedication. The dedication transformed the statue from an ambitious international project into a national symbol.

The artistic symbolism of the monument is multi-layered. The torch represents enlightenment. The tablet invokes constitutional democracy and independence. The seven rays of the crown are often interpreted as extending liberty across the world's seven continents and seven seas. The broken chains at the figure's feet symbolize liberation from oppression and slavery. Together these elements create a visual statement linking political freedom, human dignity, and civic ideals.

One of the monument's most famous associations developed through Emma Lazarus's 1883 sonnet, *The New Colossus*. Lazarus wrote the poem to support fundraising efforts for the pedestal. Although not originally part of Bartholdi's design, the poem eventually became inseparable from the statue's meaning. In 1903, a bronze plaque bearing the text was installed within the pedestal.



The post-apocalyptic Statue of Liberty depicted in The Planet of the Apes in 1968 (Twentieth Century Fox)

The inscription reads:

*"Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!"*

The words were included because supporters believed the monument should symbolize not only political liberty but also refuge and opportunity for immigrants arriving in America. Located within the pedestal, the plaque helped reshape public understanding of the statue, especially during the era of mass immigration through Ellis Island.

At the time of its dedication, the statue did not possess the familiar green appearance seen today. Its exterior consisted of bright copper panels exhibiting a reddish-brown metallic color. Exposure to

moisture, salt air, and atmospheric conditions gradually produced a green patina through oxidation. This transformation unfolded over roughly two decades. Rather than removing the patina, experts ultimately recognized that it protected the underlying copper from further corrosion.

Visitors originally enjoyed access to numerous portions of the monument, including the torch. Public access to the torch remained available from the dedication until 1916. Following the Black Tom munitions depot explosion in Jersey City, New Jersey on July 30, 1916, which resulted from sabotage by agents of the German Empire during the First World War, which damaged the monument and surrounding area, authorities permanently closed the torch to visitors. It has never reopened to the general public.

Access to the crown has experienced multiple interruptions. Visitors were generally able to enter the crown through much of the twentieth century. After the terrorist attacks of September 11, 2001, the crown was closed. It reopened in 2009, closed again during renovation work in 2011 and 2012, and later reopened to visitors.

Several major restoration campaigns have preserved the monument. Significant work occurred in 1938 and again during the extensive 1984-1986 restoration undertaken in preparation for the centennial rededication. During that project, much of the internal support structure was modernized, corroded iron components were replaced with stainless steel, and a new torch was installed. The current torch, added in 1986, is copper covered with 24-karat gold leaf. Additional improvements were completed in 2011-2012 and in later years through accessibility, safety, and museum projects, including the opening of the modern Statue of Liberty Museum in 2019.

Today the monument is owned by the United States federal government and is administered by the National Park Service as part of the Statue of Liberty National Monument. It was designated a National Monument in 1924 and a UNESCO World Heritage Site in 1984.

The Statue of Liberty has become so deeply embedded in global culture that it frequently appears in film and television. Major productions prominently featuring the monument include *Planet of the Apes* (1968), with its famous concluding image; *Ghostbusters II* (1989), in which the statue dramatically comes to life; *Independence Day*

(1996); *The Day After Tomorrow* (2004); *X-Men* (2000), whose climax occurs at Liberty Island; *Cloverfield* (2008); and numerous television series ranging from *The Simpsons* to documentaries produced by PBS, the History Channel, and National Geographic. The statue's silhouette has become a shorthand visual symbol for New York City, the United States, and the broader concept of freedom itself. The Statue of Liberty, as a symbol of New York State, was prominently featured on New York State license plates from 1986 to 2000.

One-hundred forty years after its dedication, the Statue of Liberty remains an extraordinary fusion of sculpture, architecture, engineering, diplomacy, and national mythology. Conceived in France, assembled in New York Harbor, and embraced by generations of Americans and immigrants alike, it continues to embody ideals of liberty and hope. Rising 305 feet above Liberty Island and standing within sight of Ellis Island, the monument remains both a historic artifact of the nineteenth century and an enduring symbol recognized around the world.

Selected References:

1. U.S. National Park Service, *Statue of Liberty Facts*.
 2. U.S. National Park Service, *Statue Statistics*.
 3. U.S. National Park Service, *Statue of Liberty National Monument Historical Resources*.
 4. UNESCO World Heritage Centre, *Statue of Liberty*.
 5. Encyclopaedia Britannica, *Statue of Liberty*.
 6. National Park Service historical documentation on Emma Lazarus and *The New Colossus*.
 7. Historical records of the 1876 Philadelphia Centennial Exposition.
 8. Historical records concerning Richard Morris Hunt, General Charles P. Stone, Gustave Eiffel, and Frédéric Auguste Bartholdi.
 9. Historical studies of Bartholdi's unbuilt *Egypt Carrying the Light to Asia* proposal.
- National Park Service records regarding restoration projects, crown access, and torch closure.

Buffalo's Liberty Building

The Liberty Building, located at 424 Main Street, at the corner of Main Street and Court Street, directly across from Lafayette Square in downtown Buffalo, New York, is truly a Landmark Structure in Buf-

falo's skyline.

The Liberty Building has been a distinctive feature of Buffalo's cityscape since the prosperous years of the 1920s, when downtown Buffalo was emerging as one of the leading commercial centers of the Great Lakes region. The building was developed as the headquarters of Liberty National Bank and completed in 1925. At the time of its opening, it was the largest office building in downtown Buffalo and stood as a visible expression of the confidence and financial strength of both the bank and the city.

The tower was designed by architect Alfred C. Bossom, an English-born architect who achieved considerable success in the United States during the early twentieth century and became known for his work on major office towers and banking buildings. Bossom employed a richly detailed Renaissance Revival, or Neoclassical design, giving the Liberty Building a monumental appearance appropriate for a major financial institution. The building



risers 23 stories and reaches approximately 333 feet to the roof and 345 feet to the top of its spire. Architectural features include a rusticated base, classical pilasters, ornamental cornices, balustrades, decorative pediments, Palladian-inspired window groupings, and elaborate carved stone detailing that reinforces the building's formal and dignified character.

The Liberty Building is best known for the three large replicas of the Statue of Liberty that distinguish it from every other tall building in Buffalo. These statues, sculpted by artist Leo Lentelli in 1925, were installed to symbolize the institution's

identity and patriotic values. The building's owner, Liberty National Bank, had originally been known as the German-American Bank. During World War I, strong anti-German sentiment led the institution to change its name to Liberty National Bank. The prominent Liberty statues were intended to reinforce the bank's new image and emphasize themes of patriotism, freedom, and American identity. Two 36-foot-tall statues were placed on the roof facing east and west, while a third statue overlooked the entrance. The rooftop figures also symbolized Buffalo's strategic position at the crossroads of Great Lakes transportation and commerce. Today all three statues remain among the city's most recognizable landmarks and are illuminated at night.

The building's principal use has always been as an office tower. It originally housed the headquarters and banking operations of Liberty National Bank while also providing office space for commercial tenants. Over the decades it has continued to serve as a mixed office building accommodating professional firms, businesses, and service organizations. The structure remains privately owned and continues to function as a significant component of Buffalo's central business district.

Construction was undertaken during 1924 and 1925, culminating in the building's formal opening on October 17, 1925. The tower occupies a substantial downtown footprint extending along both Main and Court Streets. The building contains approximately 400,000 square feet of floor area, making it one of Buffalo's larger historic office structures. Its height of 333 feet and 23 stories places it among the city's tallest pre-World War II skyscrapers.

The Liberty Building has undergone several important modifications since its completion. A major addition designed by Duane Lyman Associates was completed in 1961, expanding the building to the south and enlarging its banking facilities. Additional renovation and modernization work was undertaken in 1999 to preserve the structure and maintain its competitiveness as a commercial office property. These improvements allowed the building to retain its historic character while continuing to serve contemporary tenants.

More than a century after its completion, the Liberty Building remains one of Buffalo's most distinctive tall buildings. Its elegant classical design, commanding height, and iconic Statue of Liberty replicas combine to create a structure that reflects

both the architectural ambitions of the 1920s and the patriotic spirit from which it derived its name. As a result, it remains one of the most photographed and recognized buildings in Western New York.



References Used

1. Liberty Building (Buffalo, New York), Wikipedia.
2. Buffalo Architecture and History, Liberty Bank Building, BuffaloAH.com.
3. Buffalo Architecture and History, Liberty Bank Building Historical Notes, BuffaloAH.com.
4. Liberty Building General Information, Main Place Liberty Group (archived references).
5. ProcessWire Cities Database, Liberty Building, Buffalo.
6. Everything Explained, Liberty Building (Buffalo, New York).
7. Francis R. Kowsky et al., *Buffalo Architecture: A Guide*. Richard C. Brown and Bob Watson, *Buffalo: Lake City in Niagara Land*.

Feature Article

Giving Notice

What It Is and How to Do It

By Kevin O'Beirne

An often-overlooked and procedurally relevant provision of construction documents is that for “giving notice”. What does that mean?

Contracts for construction require that the parties and the design professional give various, contractually-stipulated notices. Such notices are formal, written communications that are, in accordance with the contract, of such importance that they must be transmitted or delivered in a certain manner, so that the receiving entity has a full understanding that they are receiving a formal, contractually-required notice.

Various matters in construction contracts require formal, written notice and typically include as notice of: discovery of defective work, delays beyond the contractor's control, differing site conditions, discovery of unanticipated hazardous environmental conditions, change proposals, claims, filing for dispute resolution, and others. In fact, the General Conditions and other parts of many construction contracts require written notice for a surprisingly-large number of events.

Furthermore, this writer has observed that it is fairly common for construction specifications to require “notice” by one party or the other, sometimes for garden-variety matters that may not otherwise, upon careful consideration, rise to the same level as events for which the General Conditions or Agreement require written notices. Requiring “written notice” for routine matters—for example, “Notify Engineer that substrate is ready for application of subsequent coats of paint”, or similar routine matters—should not be over-used. This is to avoid having truly-important notices—such as claims and disputes, among others—become submersed or lost in a veritable pile of “notices” for ordinary matters. For routine events, contract documents should perhaps be worded as, “Advise the Architect in writing” or similar language, instead of requiring, “Give written notice to Architect.” To summarize, a formal, written notice is supposed to signal something **important** and, often, out of the ordinary.

Notices are addressed at Section 1.6 (“Notice”) of the American Institute of Architects’ (AIA) A201—2017, *Standard General Conditions of the Contract for Construction*. AIA A201—2017 requires that, to be valid a

notice must, “*be provided in writing to the designated representative of the [recipient]... delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.... [Except that] Notice of Claims...shall be... delivered to the [recipient]... by certified or registered mail, or by courier providing proof of delivery.*”.

The Engineers Joint Contract Documents Committee's (EJCDC) C-700—2018, *Standard General Conditions of the Construction Contract*, Paragraph 18.01 (“Giving Notice”), requires that contractually-required notices be, “*delivered: 1. in person, by a commercial courier service or otherwise, to the recipient's place of business; 2. by registered or certified mail, postage prepaid....; or 3. by e-mail to the recipient, with the words “Formal Notice” or similar in the e-mail's subject line.*”



Thus, AIA documents appear to allow greater liberty for delivery of most notices—including normal US Mail and perhaps even e-mail without specific identification as a notice— except for notice of claims, whereas EJCDC documents' notice provision applies the same rules to all contractually-required notices. EJCDC also requires

that e-mailed notices be explicitly identified as formal notices. Notice requirements in other contracts are likely to differ from the AIA and EJCDC examples presented above.

Failure to furnish a required notice in accordance with the contract's notice delivery provision could result in a party or the design professional being deemed as failing to give a required notice; put another way, the notice could be invalid because of how it was delivered. However, in a matter of substantial importance, it may be inadvisable for a party to depend overmuch on the procedural technicalities of the notice clause to escape an otherwise-unpleasant outcome. While it is good practice to never treat the notice requirements lightly, it is also unwise to assume that a certain matter may be unenforceable because of the timing or delivery method of the associated notice. In determining the enforceability of a contract's notice provision, a court or arbitrator is likely to consider the extent to which other procedural technicalities were strictly enforced throughout the project.

How does one clearly and properly designate something as a contractually-required, formal, written notice? As observed by this writer, many attorneys do so by all of the following:

Clear Indication of Delivery Method: Include a header at the top of the first page of the letter (or other form of written communication) indicating the mode(s) of delivery, such as, "TRANSMITTED VIA U.S. REGISTERED MAIL/RETURN RECEIPT REQUESTED AND VIA E-MAIL" or similar words.

Indicate in the Subject Line: In the communication's subject line, use clear language such as "Notice of Claim", "Notice of Differing Site Conditions", "Notice of Delay", and so forth.

Cite the Provision: The first paragraph of the notice should explicitly cite the contractual provision requiring the notice, such as, "This letter constitutes formal notice of a Claim in accordance with Paragraph 12.01 of the General Conditions," or similar wording, as applicable.

Although both AIA A201 and EJCDC C-700 appear to leave the door open for issuance of formal notices as less-formal e-mail communications, this writer recommends that all contractually-required notices be on the transmitting party's letterhead. This will help to differentiate a formal notice from day-to-day project correspondence, which are often performed by e-mail.

Notices should be addressed and delivered to the ap-

propriate representative of the receiving party, who may be other than that organization's normal, day-to-day contact for the project. For some projects, the designated representatives are to be indicated in writing at, or prior to, the preconstruction conference. In other contracts, including many of those modeled on EJCDC documents, the person and address for giving of formal notices is expressly indicated near the end of the Agreement. Thus, before finalizing and transmitting a formal notice, the writer should ensure that it is addressed to the proper person and location. If the person to whom formal, written notices are delivered is other than the recipient's day-to-day contact person, it is often appropriate to copy the regular contact person on the notice.



In conclusion, the contract clause on how formal, required notices are delivered is important. Comply with such provisions to avoid having an otherwise clearly-written and relevant notice be deemed improperly delivered and therefore potentially invalid.

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The author of this article is not an attorney and nothing in this article constitutes legal advice. Readers in need of legal advice should consult with a qualified attorney.

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