



Date: 08/07/2025  
To:  
From: Pete Fowler Construction Services, Inc.  
Project: Construction Defects from the Developer and GC Perspective Webinar  
8/14/2025 (PFCS 25-0593)  
Regarding: Audience Handout Package

## Meet the Panel

Don Gifford

### EXPERT - PETE FOWLER CONSTRUCTION

Don Gifford is an expert in both general construction and electrical construction and design. With extensive experience as a testifying expert and witness, Don possesses a wealth of knowledge with respect to building systems, electrical and mechanical systems, lighting, fires and explosions, trips and falls, contract disputes, fiscal inequity, damages, and surety resolution. Don has more than 50 years of construction experience and more than 25 years serving as a forensics expert. He is a trusted resource to attorneys, carriers, contractors, building owners, and bonding companies, and he has been retained as an expert over 1,300 times.

Melissa Saracyan

### PARTNER - WOOD, SMITH, HENNING & BERMAN LLP

Melissa Saracyan is a partner at WSHB's Los Angeles office where she handles complex civil litigation including catastrophic injury, landlord-tenant habitability, products liability, construction defect and a wide variety of complex tort matters. Melissa has also successfully managed high-profile federal cases including bankruptcy and business matters. She has extensive experience in all phases of litigation, including pre-litigation resolution of matters, pre-trial discovery, motion practice, mediation, and trial preparation.

Melissa was admitted to the California Bar in 2016 after graduating from Southwestern Law School. While in law school, Melissa was a law clerk for civil litigation firms handling many matters including mass tort claims. She performed directed research for her professors in law school focusing on human rights abuses and international and comparative law. After passing the bar, she began practicing in business and international tax law, international and domestic tax planning and tax representation.



## Walter Nelson

### **CLAIMS MANAGER - TURNER SURETY AND INSURANCE BROKERAGE**

Walter Nelson is a seasoned Claims Manager at Turner Surety and Insurance Brokerage, specializing in construction defect claims since 1996. With an impressive career spanning over 25 years, Mr. Nelson has established himself as an expert in handling complex claims related to high-end homes and condos, and holds the following designations: CRM, CGA, and CRIS. Alongside his professional endeavors, Walter finds joy in activities such as golfing, biking, hiking, and attending live music events.

## **Presentation Materials**

1. Lesson Plan with links to referenced backup materials
2. Power Point Slides



# Construction Defects from the Developer / GC Perspective



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Pete Fowler  
**CONSTRUCTION**  
Services, Inc.

## INTRODUCTION

*Construction Defect Litigation from the Developer / GC Perspective* is a series of case studies in successful planning, analysis and execution of expert work on behalf of developers and general contractors. Construction defect litigation can be expensive, confusing and long lasting, but it doesn't have to be. Through this presentation, we will break down the process from the Developer / GC point of view, and provide approaches and alternatives in construction defect litigation.

This webinar will demonstrate how developer and general contractor litigation should be investigated and executed from an expert consultant perspective, using the most current standards and science-based building performance analysis. In preparing for trial, you want the highest level of professionalism in conducting building performance investigations. Investigations should involve conformance with the best standards of practice, a written investigation plan, random selection protocol for inspection and testing locations so the data is not biased, a comparison of performance to perfection, realistic repair estimates, and allocations to trade contractors. This program will include real-life case studies applying various approaches to construction defect litigation matters and examples of good work.

## PROGRAM OUTLINE

1. Introduction
2. Preliminary Analysis
3. Analysis
4. Allocation & Mediation
5. Deposition & Trial
6. Conclusion

## LEARNING OBJECTIVES

- Gain a big-picture perspective on handling construction defect litigation from a developer or general contractor perspective.
- Review Case Studies of numerous project types.
- Look at actual project deliverables.

## PROGRAM CONTENTS

1. Introduction – 5 Minutes
  - A. Who We Are
  - B. Presenter Information
  - C. Program Outline
  - D. Program Introduction
  - E. Learning Objectives
2. Preliminary Analysis – 10 Minutes
  - A. Types of Construction Defect Claims
  - B. Who is Who?
  - C. The Foundation
  - D. Preliminary Analysis
3. Analysis – 20 Minutes
  - A. Digging Deeper
  - B. IIACC Method
  - C. Detailed Analysis
  - D. Rebuttal Analysis
  - E. Estimating Basics
  - F. Case Study: High-Rise Condo
4. Allocation & Mediation – 10 Minutes
  - A. Allocation of Responsibility: Basics
  - B. Contracting 101
  - C. A Real, Professional Allocation
  - D. Mediation
5. Deposition & Trial – 10 Minutes
  - A. Deposition and Trial Strategies
  - B. Case Study
6. Conclusion – 5 Minutes
  - A. Continuing Education
  - B. Back-Up Materials
  - C. Feedback

## BACK-UP MATERIALS

1. [Allocation of Responsibility in Construction-Defect Litigation](#) by Pete Fowler
2. [Contracting 101](#) by Pete Fowler
3. [High-End Headaches: Why High-End Home Construction Litigation Is So Difficult To Resolve](#) by Bob Carlson, Pete Fowler, Barbara Laskaris-Lorigan, and Craig Meredith
4. [The Tangled Web of Hybrid Construction Contract/Defect Claims](#) by Pete Fowler, Bob Carlson, Barbara Laskaris-Lorigan, and David Veis
5. [SB 800 Introduction and Summary: CA Builders Right To Repair Law](#) by Pete Fowler
6. [Understanding & Evaluating Construction Costs for Building Claims](#) by Pete Fowler
7. [Civil Litigation Basics for Construction Professionals](#) by Pete Fowler
8. [Common Construction Defects](#) by Pete Fowler



WEBINAR

THURSDAY, AUGUST 14<sup>TH</sup>, 2025 @ 10:00AM PT

Pete Fowler  
**CONSTRUCTION**  
Services, Inc.

# Construction Defects from the Developer & GC Perspective

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With Don Gifford, Walter Nelson, and Melissa Saracyan.





ABOUT US

Building Experts.

Helping Smart People Make Smart Decisions



Construction Defects



Property Claims



Personal Injury Claims



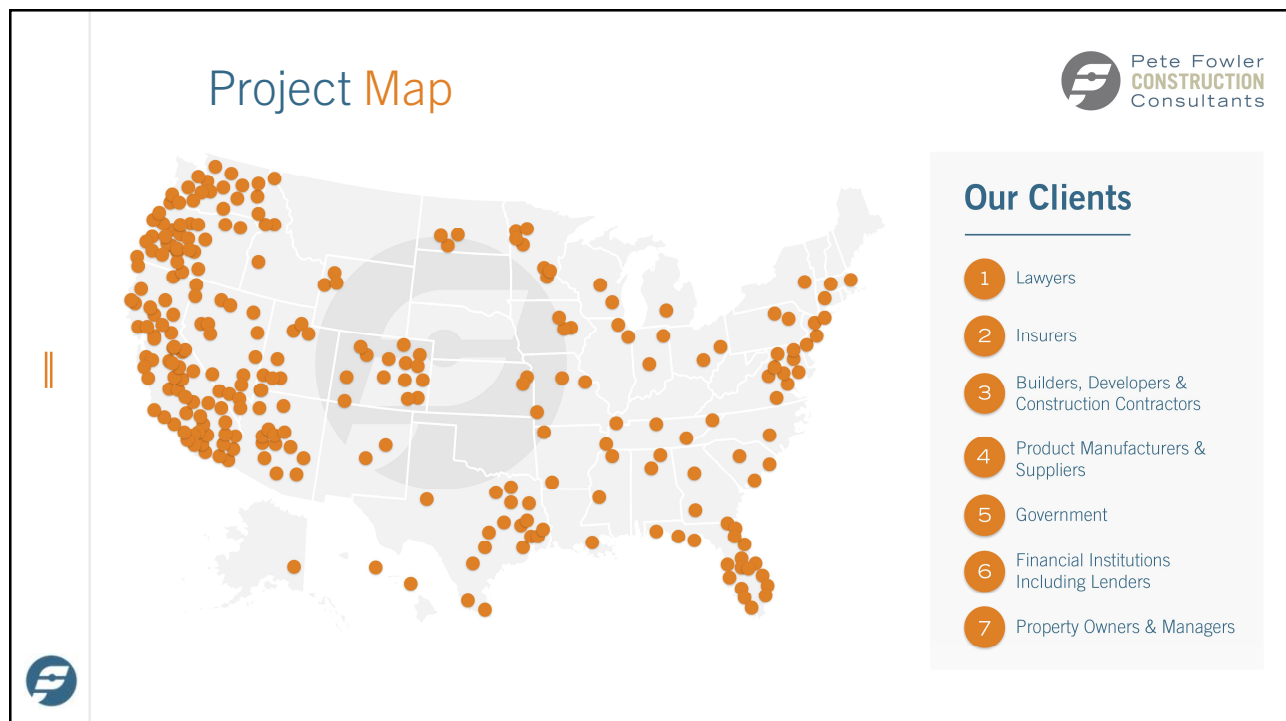
Contract Claims



Estimating, Quality & Construction Management



Fire Claims





## Meet our Presenters



**Don Gifford**

Expert  
Pete Fowler Construction



**Melissa Saracyan**

Partner  
Wood, Smith, Henning & Berman LLP



**Walter Nelson**

Claims Manager  
Turner Surety and Insurance Brokerage





# Introduction



## Learning Objectives

- 
- Gain a big-picture perspective on handling construction defect litigation from a developer or general contractor perspective.
  - Review Case Studies of numerous project types.
  - Look at actual project deliverables.



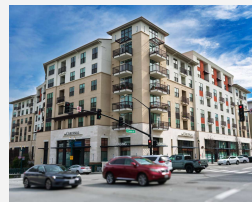
## Types of Construction Defect Claims



Single Family Residence



Multi-Family Projects



Mixed-Use Developments



Commercial



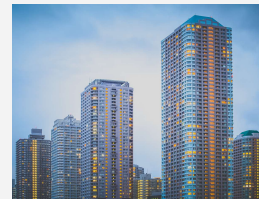
Institutional



Industrial



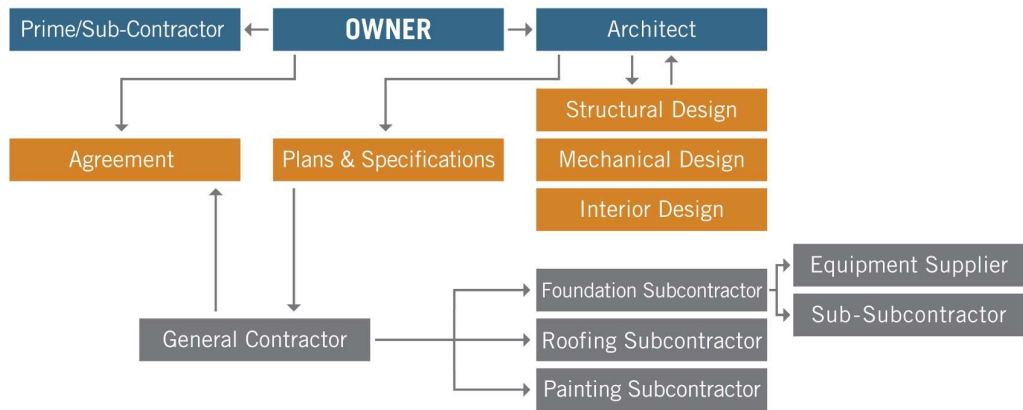
Low-Rise Construction



High-Rise Construction



## Who is Who?





1. Allocation Summary with Settlement Ranges (1-2 pages)

2. Allocation-Claim Packages for Each Player (5-100+ pages each). Compiled so decision makers have what they need to make a settlement decision: Allocation to Party Worksheets; the Report; Cost Analysis; evidence of damage; Contract(s)

3. Allocation Matrix; See article section for details. Contains all Allocation to Party worksheets

4. Allocation Summary with Settlement Ranges (1-2 pages)

5. Allocation-Claim Packages for Each Player (5-100+ pages each). Compiled so decision makers have what they need to make a settlement decision: Allocation to Party Worksheets; the Report; Cost Analysis; evidence of damage; Contract(s)

## The Foundation

7. Report(s) including List of Players, Roles, and Relationships (incl. Org Chart), Key Documents, and a List of Issues and Issue-By-Issue Analysis.

8. Inspection & Testing Data including Testing Summary and Inspection Analysis.

9. Project File; plans, specifications, contracts, daily reports, correspondence, inspections, etc. General Project Documents and Project File Documents for each player

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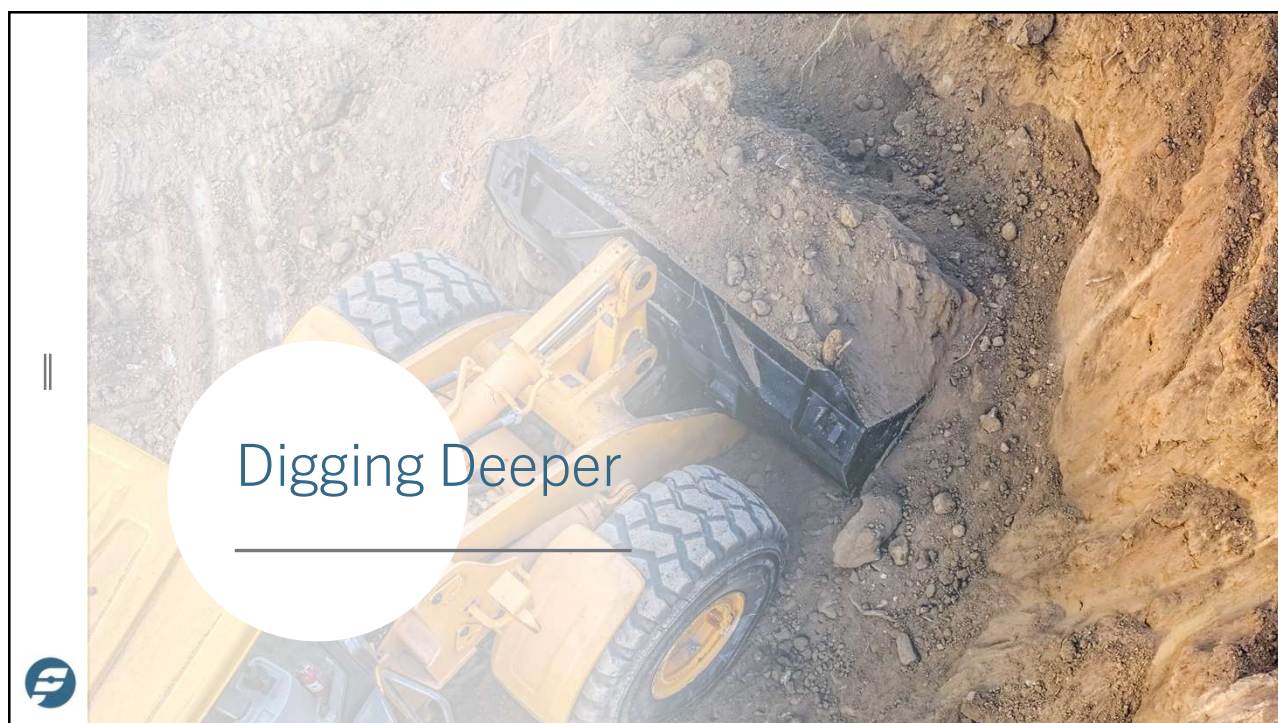


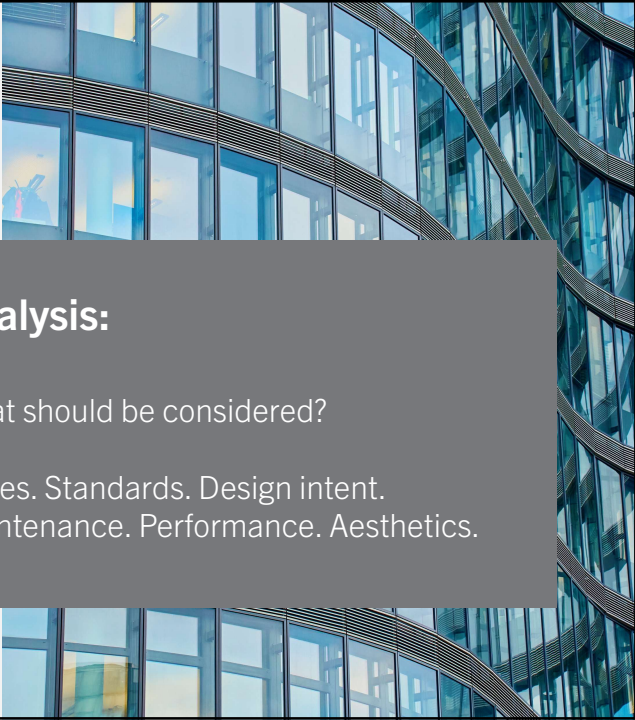
## Preliminary Analysis

- Collect and summarize allegations
- Prepare list of involved homes including projects, phases, tract, lot, etc.
- Prepare for and conduct visual inspection: floor plans, check lists, etc.
- Scope of work for subcontractors including locations work performed









## IIACC Method

- Issue
- Investigation
- Analysis
- Conclusion
- Costs

**Analysis:**

What should be considered?

Codes. Standards. Design intent.  
Maintenance. Performance. Aesthetics.



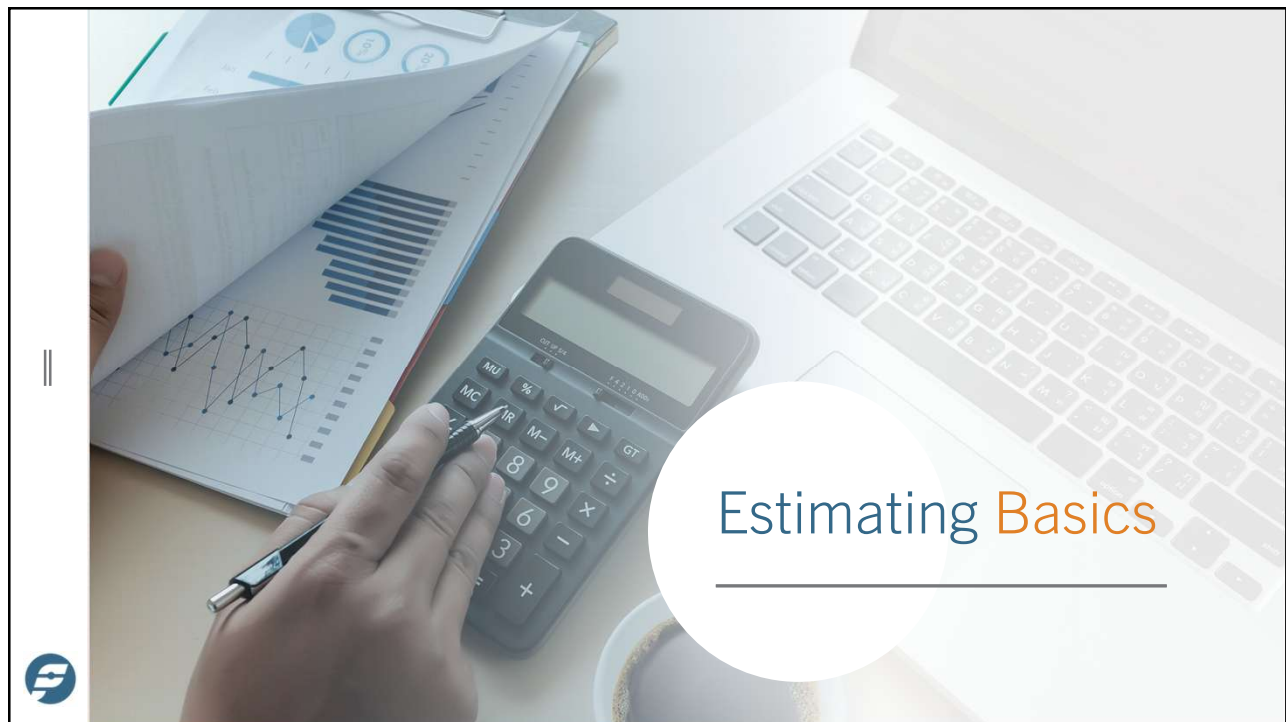
## Detailed Analysis

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- Combine Allegations and Subcontractor Matrix and Unit Matrix: Understanding this will be the basis for allocation of responsibility
- Prepare inspection/testing summaries
- Correlate photos and issues, begin count of issue occurrences
- Begin quantity take offs, identify finishes per address/location
- Prepare preliminary response to allegations













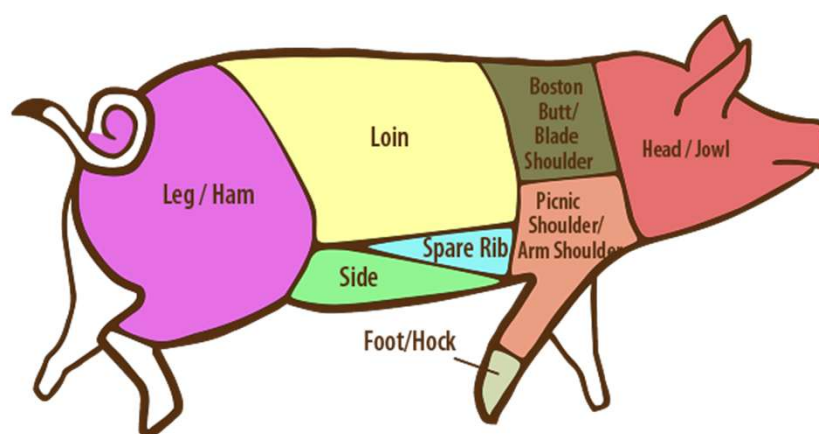
## Allocation of Responsibility: Basics

| ISSUES |      |             |
|--------|------|-------------|
| #      | CODE | DESCRIPTION |
| 1      |      |             |
| 2      |      |             |
| 3      |      |             |
| 4      |      |             |
| 5      |      |             |
| 6      |      |             |
| 7      |      |             |
| 8      |      |             |
| 9      |      |             |
| 10     |      |             |
| 11     |      |             |
|        |      | TOTAL       |

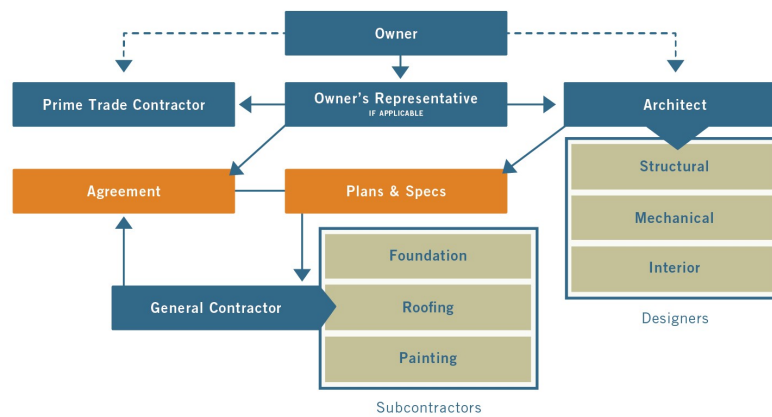
| VALUE |
|-------|
| \$    |
|       |
|       |
|       |
|       |
|       |
|       |
|       |
|       |
|       |
|       |
|       |
| \$    |

| PARTIES |     |              |
|---------|-----|--------------|
| #       | WHO | WHAT & WHERE |
| A       |     |              |
| B       |     |              |
| C       |     |              |
| D       |     |              |
| E       |     |              |
| F       |     |              |
| G       |     |              |
| H       |     |              |
| I       |     |              |
| J       |     |              |
| K       |     |              |
|         |     |              |

## Allocation of Responsibility: Basics



## Contracting 101



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## A Real, Professional Allocation

- You have a sensible issues list
- You have realistic values assigned to each issue, including O&P and all “Other Project Costs”
- You allocated each value fairly to an applicable party
- The total of the allocated amounts add up to the total value of the issues (to the penny)
- The only things people can argue are the values and percentages allocated











## Learning Objectives



Gain a big-picture perspective on handling construction defect litigation from a developer or general contractor perspective.

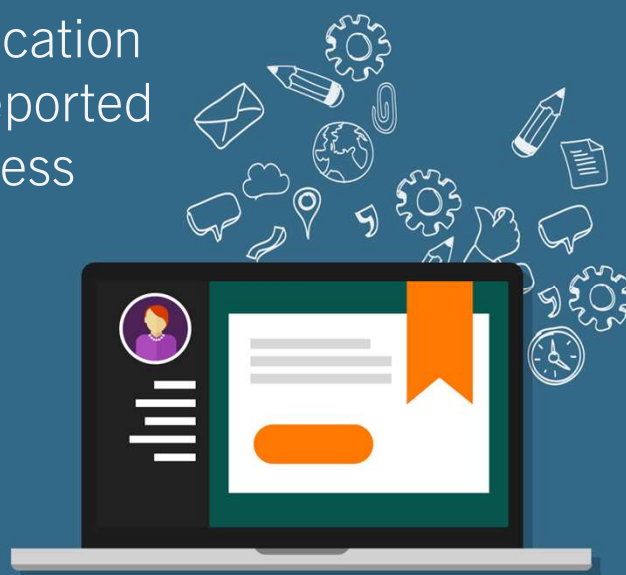


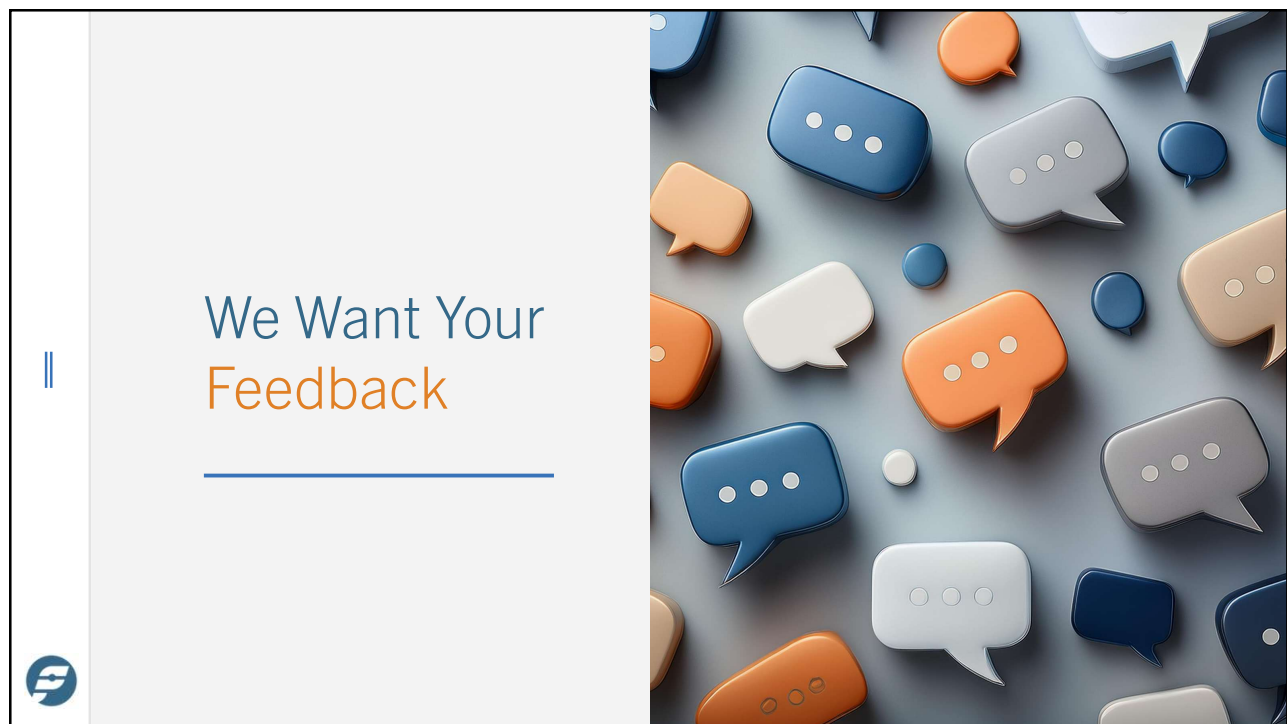
Review Case Studies of numerous project types.

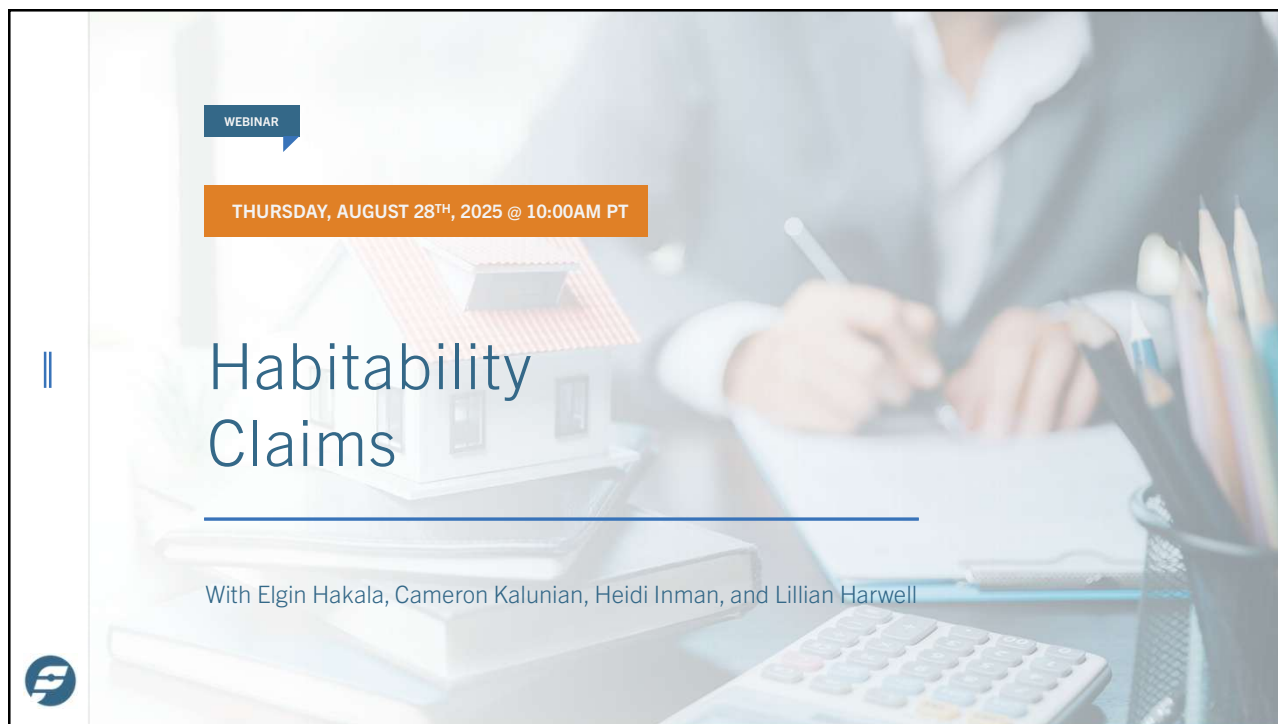


Look at actual project deliverables.

Continuing Education  
Credit will be reported  
within 10 business  
days.







WEBINAR

THURSDAY, AUGUST 28<sup>TH</sup>, 2025 @ 10:00AM PT

# Habitability Claims

With Elgin Hakala, Cameron Kalunian, Heidi Inman, and Lillian Harwell

