

## **PRO-DEMUNITY PROTECTS + DEFENDS ARCHITECTS EFFECTIVELY. HERE ARE THREE THINGS WE CAN'T DO FOR YOU.**

We regularly hear requests for us to tell architects' clients they "are wrong" (or their contracts are bad, or the fees are too low, or the requested limits are too high). *"Why can't Pro-Demnity do something?"* we are asked.

We are always humbled that our community of practice believes we have dominion over issues affecting the profession, or situations that are seemingly out of their own firm's ability to control. We are, however, an authority on risk, and in this area, we can and do share our expertise.

As the architects' professional insurer and trusted ally, Pro-Demnity helps guide architects as to how they can act on these issues and manage or mitigate the risks, but, ultimately, we are not able to force or forbid anyone or any entity to do anything.

As an insurance company [regulated by the Financial Services Regulatory Authority (Ontario)], Pro-Demnity:

### **1. CANNOT TELL ARCHITECTS OR THEIR CLIENTS WHAT A CONTRACT MUST SAY. WE ARE NOT A LAW FIRM AND CANNOT PROVIDE LEGAL ADVICE.**

Pro-Demnity can and does advise architects on the potential negative risk consequences of proposed contract wording and what parts may be uninsured or not covered by our policy, meaning it will be up to your own resources to defend and indemnify.

- For government and publicly funded entities, this is a matter of good public policy and safeguarding the public (poor risk management increases and sometimes even creates risk).
- For commercial entities, this is a matter of minimizing total costs (again, poor risk management ultimately increases costs), reputation management, and completion of future deals and projects.

Pro-Demnity can and does direct architects to retain [qualified lawyers](#) who are already familiar with architectural practice and the many issues that can arise in practice. Architects are encouraged to reach out to these professionals as a resource for their practice.

## **2. CANNOT TELL ARCHITECTURAL PRACTICES WHAT THEIR FEE MUST BE.**

Pro-Demnity can and does advocate for robust architects' fees generally. It is our strong belief that the public well-being is threatened when architects take on work for too low a fee, as practices are then unable to assign the necessary resources to do the job properly, potentially endangering public safety.

We do believe that fees should reflect the architect's unique value proposition and capabilities, as well as account for project risks.

But we also accept that only the architect ultimately determines how much they are willing to work for: only you can say yes or no.

## **3. CANNOT TELL ARCHITECTS (OR THEIR CLIENTS) WHAT LIMITS OF PROFESSIONAL LIABILITY INSURANCE COVERAGE ARE ENOUGH.**

Pro-Demnity can and does share information regarding the mandatory minimum limits of coverage, and we do share concerns when high limits are requested by clients. Sometimes these requests may be a sign the client is planning to use the insurance policy as a contingency relief fund rather than for legitimate alleviation when unanticipated mistakes, errors or events arise. This costs every architectural practice in the form of higher insurance premiums. But we also understand that there is always risk.

We are aware that claims against architects may arise from both *inside* the contract and *outside* the contract, meaning that contractual indemnity limitations and caps are not the complete definition of how much insurance may be enough.

We know that many Third-Party claims (such as personal injury claims) are unrelated to project size or fee received. On large, complex projects we have also experienced that even a relatively minor apportionment of liability on a claim of tens of millions of dollars can represent a significant dollar amount.

As your professional liability insurer, Pro-Demnity cannot make decisions for you or tell you how to run your practice.

Ultimately, Pro-Demnity can and does provide valuable risk education, guidance and assistance – through our Risk Services team – to architects and practices about the factors to consider in deciding upon the risks you and your firm take.