

Enabling the Good Samaritan in All of Us

On Monday, May 10, more than a hundred experts from across the country travelled to Alabama and donated their otherwise billable time to help Alabamans recover from the storms and tornadoes that tore through the Southeast on April 27. The American Institute of Architects and its Alabama Council assembled a specially-trained, 165-member team of architects, engineers, building inspectors and fire marshals who began performing safety assessments on homes and other structures. These assessments, which are a necessary step before any real reconstruction can commence, help determine whether buildings are safe for permanent occupancy, temporary or partial occupancy or if structures need a detailed damage assessment and additional work. The goal is always to allow citizens to return to their homes and businesses as quickly and safely as possible so the healing process can begin.

With yet another tornado disaster to cope with in Joplin, Missouri, the country seems continually plagued with an inordinate amount of disasters over the last few years. In such circumstances it's natural to assume that simple acts of charity can be performed with no real strings attached. Not so. Disaster assistance providers, even doctors who volunteer in a crisis, often incur a legal liability for their charitable work. The same holds true for architects. Architects are often willing to volunteer their time and services if asked by government agencies to help safeguard the preservation of a community's health, safety, and welfare. But during such situations, a licensed architect may be exposed to questions of liability even though he or she is acting in good faith to preserve the safety of a community. Volunteer assistance by architects during disasters is occurring more frequently; good deeds should not be punished.

While a number of states, including Florida, have statutes designed in varying degrees to protect and shield certain volunteers from liability during an emergency situation, it is questionable if these statutes would shield an architect from liability if he or she is called upon to render professional services in a time of crisis. This ambiguity needs to be removed so that people and communities hit by disasters – natural or man-made – can deploy all the means at their disposal to get back up on their feet again.

Currently, roughly half of the states have some sort of Good Samaritan laws on the books. But they vary widely in scope and jurisdiction. In Alabama, for example, the Good Samaritan law protections for architects expire just thirty days after the declaration of an emergency. In such a situation as that faced by Alabama, where whole swaths of the state lie in ruins, thirty days is hardly enough time to make a meaningful impact. What's more, the limitation on liability applies only to architects and other design professionals who are licensed, presumably in Alabama, and includes those working under their direct supervision, and only when the services are provided in connection with governmental emergency management agencies or a "community emergency response team."

With the nature of disasters as unpredictable and state-by-state statutes widely differing, it is important that the design and construction industry be prepared in every sense of the word when called upon to take immediate action. Congress really needs to pass a national Good Samaritan statute. One place to start is with the "Good Samaritan Protection for

Construction, Architectural and Engineering Volunteers Act” (H.R. 1145), sponsored and introduced in March by Rep. David Reichert (R-WA). Currently before the House Judiciary Committee, H.R. 1145 would help protect construction companies, architectural and engineering firms and their employees from liability for negligence, except for gross negligence or willful misconduct, when they volunteer to provide emergency assistance in response to a declared emergency or disaster, without expectation of compensation.

We live in an increasingly fragile world coping with fragile economies across a wide spectrum of regions and geographies, where the ability to provide immediate help to the afflicted can frequently make the difference between quick recovery and harmful delay. Let’s take the first step and make the Good Samaritan in all of us more willing to step up and help. Having a national, clear Good Samaritan law on the books would help us do just that.

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