

How To Respond to a Washington Notice of Construction Defects

This article is written by Douglas S Reiser, principal at [Reiser Legal LLC](#) and [The Builders Counsel Blog](#). Doug is a construction lawyer licensed in Washington and Louisiana. Follow him on Twitter: [@douglasreiser](#).

Have you ever received a standard form Notice of Construction Defects (RCW [64.50.020](#)) from one of your customers? A lot of contractors have dealt with this dilemma and wonder how to respond. This article provides some simple things to remember when responding.

Remember, a customer cannot file a lawsuit until forty-five (45) days after this notice has been delivered to you. Follow these simple rules to respond and put yourself in a good position to resolve your dispute, or defend against it in court:

1) Evaluate the Notice Fully

Contractors are quick to dispel claims from customers. Do not do be so quick to shake off a claim. Evaluate the claim fully and consider consulting with a city or independent building inspector. It is never a good idea to simply outright deny a claim, without taking a look. Only if you are 100% sure that you are not responsible, should you reply with a denial. More likely, you should proceed to #2 below.

2) Request an Inspection of Alleged Defects

Within twenty-one (21) days after you have received the notice, you may request an inspection of the alleged defects. ([RCW 64.50.020\(2\)\(a\)](#)) This is always a good idea.

You can inspect the property personally, or even better, have an independent inspector evaluate the damages and determine a proposed course of action. But, taking the opportunity to timely inspect the premises may limit your liability for damages and preserve evidence that can be used in a trial of the dispute (if you get there).

3) Respond to the Claim

If you elected to forgo the inspection, you should respond to the claim within 21 days after you received it. You can respond by simply offering to fix some or all of the damages, or denying the claim. If the customer denies the offer, they will proceed to court.

If they fail to respond to your offer within thirty (30) days, you may go ahead and terminate the offer. ([RCW 64.50.020\(3\)\(b\)](#)) If you elected to take an inspection, produce the findings of your inspection within fourteen (14) days of the inspection. That is the time required under RCW 64.50.

Along with your findings, you may deny the claim, offer to remedy the work, or offer monetary payment. If the claimant does not respond within 30 days, you may go ahead and terminate the offer.

4) Preserve Your Findings

If you cannot resolve the matter through the process above, do not believe it was all for nothing. Though there is no explicit penalty for avoiding a Notice of Construction Defect, the benefit to the contractor is substantial. If you miss this chance to inspect the property, you may not get another chance until well into litigation. Also, you will not be able to illustrate the conditions of the property after the work was completed – as opposed to what it might look like once litigation begins (where additional damages might have arose).

Preserve all your findings in video or photographic records. Also, try and use an independent inspector and maintain their report. Keep in touch with them as a possible witness in a lawsuit or arbitration. Having these records might save you a substantial amount of legal fees.