

W. E. Eckers -

BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM

# Office Correspondence

Date October 2, 1940

To Board of Governors

Subject: Legal rights and obligations

From Mr. Vest

under contract with Architect.

In accordance with the request of the Board at its meeting on October 1, 1940, there is set forth below a statement with respect to the legal rights and obligations of the Board of Governors under the contract entered into with the Architect under date of July 8, 1940, in the circumstances now existing.

It is understood that, in accordance with the contract, the Architect has prepared and delivered to the Board preliminary drawings, sketches and estimates of cost both for filling in of the wings of the present building and the addition across C Street and for the exterior grounds for each; and that the Architect has submitted the proposed designs to the Commission of Fine Arts and the National Capital Park and Planning Commission, which bodies have approved the designs.

(1) While the contract contains no specific provision on the point, it does not contemplate that the plans of any other architect will be used, either as the result of an architects' competition or otherwise, except upon severance of relations with the present Architect in the manner hereafter indicated.

(2) The Board has the clear right under the contract "at any time" and "for any reason" to sever relations with the Architect with respect either to the alterations or the addition, or both.

(3) If it does so, it must pay the Architect all sums which have theretofore become due and in addition "such sum as may be fair and equitable in the judgment of the Board according to the portion of his services rendered which is not covered \* \* \* by the amounts which have theretofore become due to him". In other words, if the Board should terminate the contract at its present stage (i.e., without approving the preliminary plans), it would have to pay the Architect such sum as it may consider fair and equitable for services rendered to date by the Architect.

(4) In determining the amount of such sum, the Board must give "due consideration to evidence which may be furnished by the Architect as to the amount of work which he has performed and the amount of expense which he has incurred".

(5) Having severed relations with the Architect as above outlined, the Board has the specific right to select any other architect it desires to complete the work.

(6) The Board has the right to decline to approve the plans submitted and to require the Architect to revise the plans at his own expense until they are satisfactory to the Board. Even after approval of the plans, the Board may require changes therein by compensating the Architect for the additional expense.

Alternatives of Board

In the circumstances, the following alternative courses are now open to the Board:

(a) The Board may approve the preliminary drawings and permit the contract to continue in effect and the Architect to proceed with the next stage of his work.

(b) The Board may affirmatively decline to approve the preliminary plans, and unless the contract is terminated the Architect is then required to revise them, without additional compensation, until the approval of the Board is obtained.

(c) The Board may approve the preliminary plans and simultaneously sever relations with the Architect. If it did so, it would be obligated to pay the Architect 20 per cent of his fee (which is 5-3/4 per cent of the estimated construction costs). Moreover, it may be that the Architect has gone ahead with other phases of the work under the contract without awaiting approval of the preliminary plans, and it is possible, therefore, that the Board would be obligated to pay, in addition to the 20 per cent, a fair and equitable amount to cover such additional services, if in its judgment the 20 per cent payment is not sufficient fairly and equitably to cover them.

(d) The Board may sever relations with the Architect without approving the preliminary plans. If it did so, it would be required to pay the Architect a "fair and equitable amount" to cover services rendered by the Architect up to this date. The question whether the Board is dissatisfied with the plans submitted or severs relations for some other reason would seem to be a factor for consideration in determining such "fair and equitable amount" to be paid to the Architect.

(e) The Board conceivably could simply permit the existing situation to continue without any action whatever. If this course of action should be followed indefinitely, presumably the Architect would eventually undertake to compel the Board to pay him for work already performed.

The Board may adopt any one of the above alternatives with respect to the filling in of the wings and any other alternative with respect to the addition, and vice versa.

Respectfully,

George B. Vest,  
Assistant General Counsel.