Final straw for **SMALLER BUILDERS?**

The alarming increase in South Africans at all walks of life opting for a policy of "getting as much as they can for as little payment as possible" is contributing to the decline of a building industry already plagued by late or no payments, says Uwe Putlitz, CEO of the Joint Building Contracts Committee (JBCC).

Putlitz says late payments for work done on a building contract – even by just one of the parties involved – inevitably has spiralling and serious consequences, particularly for smaller subcontractors who in desperation can take this 'grab what you can' attitude further by entering a world of crime.

"In terms of common law, the client or employer must pay the service provider in full on successful completion of a building project. Also, in common law, there are no changes to the scope of the project and hence, theoretically, no reasons for delays and/or additional costs.

"But this is not as simple, nor always practical, when it comes to building contracts. This is why the industry drafts 'standard forms of contract' to amend certain common law provisions to, for example, make provision for interim payments.

"Building projects involve a number of entities creating a supply chain. The client usually appoints a professional team to conceive, design and implement a project. The various consultants are bound by a form of contract that specifies payment milestones on the completion of a project stage, often translated into monthly payments to suit the commercial world. Such design is then executed by a team of different contractors who purchase materials and other goods from numerous suppliers.

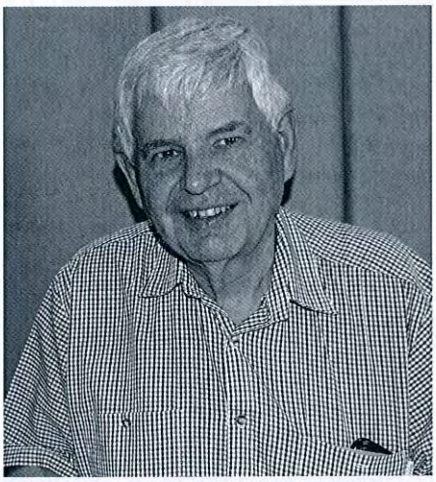
"If each party to a contract makes stipulated payments – on time – all involved should get paid within a reasonable and defined period of time. But if just one party chooses not to make a payment of a certified amount, or to delay such payment, the payments to others in the supply chain are disrupted," Putlitz explains.

He says this problem was identified more than 10 years ago in New Zealand and other Asia-Pacific countries leading to the outlawing of 'pay-when-paid' clauses in building contracts. This principle spread to Europe and many other contries, including recently to South Africa where the Construction Industry development Board (cidb) is drafting Best Practice Principles to enforce payments of a debt by the agreed due date. Associated with this is the option to involve an 'adjudicator' where a certified payment is disputed.

"Implemetation of the proposed 'prompt payment' best practice will go a long way to ensure sustainability of all invoved in the industry as currently many subcontractors and suppliers become 'bankers' for those higher up on the supply chain where amounts due are paid after 90 days or longer – or not at all. This leads to avoidable bankcruptcies and the consequent loss of already scarce skills, forcing some of the now unemployed into desperate measures – even crime – to survive.

"The problem is aggravated by the attitude in a society where it has become the norm to get as much as possible for as little payment in return – resulting in compromises in design and execution, and failure to provide an accetable and comprehensive service for a product to function effectively over its lifespan. Consumers have opted for higher and ongoing maintenance costs instead of a better intitial expenditure.

"This applies equally to the building and construction industry as well as any other industries. All that's different is the terminology used," Putlitz adds. ■



Time can be disastrous to the profits and survival of all parties in a project. Late payment causes a spiralling effect that affects all involved, warns Uwe Putlitz, CEO of the JBCC.