

Letters to the Owner Need to Tell, Not Ask

Executive summary. Most contractors use letters to communicate significant events in a project. Use letters to tell. Use RFIs to ask.

Letters for when and for what. Generally speaking, during a construction project, letters are used by contractors to owners at significant or milestone-type events. Common reasons for letters include:



- Confirmation of an event such as a statement in a weekly meeting
- Confirmation of path forward
- Advisement
- Notification of error or omission
- Notification of changed site condition
- Notification of added time or cost
- Request for action
- Response to matter

As a contractor time is money, so by definition asking for something in a letter means you will have to wait. Contractors should never want to wait. Therefore, it follows that telling the owner in a letter equates to not having to wait. It may be that the client contacts you and stops you, but this is what you want.

Telling, not asking. Here are some examples of how to tell, not ask.

Matter	Asking	Telling
Changed Condition	We have encountered a changed condition at Building A. How should we proceed?	We have encountered a changed condition at Building A and are standing by awaiting your direction on the manner in which to proceed.
Change in product or means and methods	We have modified the concrete mix design and wish to obtain your approval prior to pouring the porte cochere island.	We have modified the water/cement ratio for concrete mix XYZ123 to meet the specification and will be proceeding with the porte cochere island pour tomorrow morning using this concrete mix.

Matter	Asking	Telling
Oral directive	We wish to confirm that you do not want to have the HVAC tested in the penthouse units per your statement today in the progress meeting.	Please be advised that we are proceeding with calling off the HVAC testing in the penthouse units in accordance with your oral directive at today's weekly progress meeting.
Progressing the work	Please advise the undersigned if it is permissible to start work on Baggage Claim A.	XYZ Construction will be commencing work on Monday at Baggage Claim A.

The goal here is to use language that keeps progressing the work. The author is documenting, documenting, documenting. As the contractor, we are going to go unless we're told to stop. And then, the stoppage becomes owner-directed.

Here are some additional phrases to use in letter writing:

- We are standing by awaiting the manner in which to proceed with this matter.
- We have stopped work in accordance with your direction.
- Please notify the undersigned should we be misunderstanding your directive.
- Please contact me immediately should we be misinterpreting the owner's position on this matter.
- As such, we will proceed on time and materials – please advise the undersigned immediately should our interpretation of the current matter be incorrect.

My story. The bullets immediately preceding this sentence were commonly used in my letter writing. There are few compassionate owners who will gift you time on their project, or gift you payment for your extended overhead. So, the theory was to ask for forgiveness versus permission.

And now that I'm on the owner side, although this approach may seem a bit aggressive, at the end of the day owners like to have their projects finished on time. And to the extent you are pushing the project, you have an on-time project which is ultimately one of the two top goals of an owner (the other being cost)!
Work safe!

