

Excusable Delay and Builder's Risk: A Reminder to Weatherproof Your Contracts

"The winter storm that brought snow, freezing temperatures, power outages, frozen water lines and bursting pipes to Texas, shutting down most construction projects in the process, forced many contractors and owners to take a look at their contracts to determine who is responsible for the ensuing delays and the costs to repair any damage," writes Tim Fandrey in *Texas Construction Law Blog*.

"While each contract varies, delays generally arising from unforeseen adverse weather conditions are typically considered either a force majeure event or an otherwise excusable delay. Excusable delays, including force majeure events, are different from compensable delays. Excusable delays are no one's fault and are beyond the impacted party's control. Accordingly, while the impacted party is generally entitled to additional time to perform the work, they are not entitled to additional compensation. Compensable delays are delays beyond the control of the impacted party that are the cause or fault of the other party. Compensable delays entitle the impacted party to additional time and additional compensation. Force majeure events are typically extreme or severe events, or acts of God, such as hurricanes, earthquakes and tornadoes and are often treated as compensable delays."

Read the post.