BEFORE THE
MARYLAND STATE BOARD OF CONTRACT APPEALS

Appeal of CENTEX CONSTRUCTION COMPANY, INC.	)	Docket No. MSBCA 1419
Under MTA Contract No. 3-32-3	)	

March 29, 1990

Contract Interpretation - A contract is ambiguous if it sustains the interpretations advanced by both parties. In the instant case involving interpretation of symbols, descriptive verbiage and provisions of the contract electrical drawings and specifications the Board found that there were two possible and reasonable interpretations of the meaning of the symbols, descriptive verbiage and provisions under consideration. Accordingly, the Board found that the contract was ambiguous.

Contract Interpretation - The Board found that the ambiguity in the instant case was obvious from a review of the relevant symbols, descriptive verbiage and provisions of the electrical drawings and specifications; i.e. two possible and reasonable interpretations were immediately apparent on the face of the contract. The contractor's failure to seek pre-bid clarification of the ambiguity thus led to the denial of its claim for alleged increased costs in performance in accordance with the State's interpretation.

APPEARANCE FOR APPELLANT: David G. Lane, Esq.
Venable, Baetjer and Howard
McLean, VA

APPEARANCE FOR APPELLANT: Jay N. Bernstein
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OPINION BY CHAIRMAN HARRISON

Appellant on behalf of its subcontractor, Dynalectric Company (Dynalectric) appeals the final decision of the Mass Transit Administration (MTA) denying a claim submitted by Appellant on behalf of Dynalectric for alleged extra costs involved in electrical installation work.

Findings of Fact

1. The contract involved construction of the Wabash Division Bus Facility for the MTA in Baltimore, Maryland and was awarded on November 27, 1984. Appellant ultimately subcontracted with Dynalectric in lump sum amount of $1,423,000 for performance of electrical work including, inter alia, the installation of conduit for "feeder" and "branch" circuits in both finished and unfinished areas of the Maintenance and Service & Storage Buildings of the bus facility.

2. The contract electrical drawings and specifications include the following symbols, descriptive verbiage and provisions that are relevant to the dispute herein.

Drawing No. E-1:

SYMBOL	DESCRIPTION
————	RACEWAY AND WIRING, CONCEALED IN OR ABOVE CEILING OR WALL, EXCEPT IN UNFINISHED AREA.
- - - - - - - -	RACEWAY AND WIRING, INSTALLED IN OR UNDER FLOOR OR UNDERGROUND.
/// //--	BRANCH CIRCUIT RACEWAY AND WIRING, MARKS ACROSS RACEWAY INDICATE NUMBER OF 12 A.W.G. CONDUCTOR IN RACEWAY. UNMARKED RACEWAY RUNS DENOTES 2#12 A.W.G. CONDUCTORS IN RACEWAY. (3/4" conduit minimum).
1,11 / LP1	BRANCH CIRCUIT HOMERUN TO PANELBOARD OR MOTOR CONTROL CENTER (MCC). LETTERS INDICATE PANEL OR MCC; NUMERALS INDICATE CIRCUIT NUMBERS.
---U-----	DIRECT BURIAL CABLE

GENERAL NOTES:

6. CONDUIT SHALL BE 3/4-INCH MINIMUM TRADE SIZE UNLESS OTHERWISE NOTED.

8. THE ELECTRICAL DRAWINGS ARE GENERALLY DIAGRAMMATIC. THE ELECTRICAL INSTALLATION SHALL BE COORDINATED WITH ALL OTHER TRADES SO THAT INTERFERENCES BETWEEN THE ELECTRICAL INSTALLATION AND ARCHITECTURAL, STRUCTURAL, MECHANICAL, PLUMBING, FIRE PROTECTION, AND EQUIPMENT INSTALLATION WILL BE AVOIDED. . . .

11. INSTALL ALL CONDUIT AND/OR EQUIPMENT IN SERVICE AND MAINTENANCE BAYS WITHIN OR TIGHT AGAINST BOTTOM OF CHORD OF ROOF TRUSS TO PROVIDE MAXIMUM CLEARANCE FOR HOSES IN SERVICE AND MAINTENANCE BAY'S *[sic]*.

SPECIFICATION_SECTION_16050

PART 1 - GENERAL

1.4 PRODUCT HANDLING

F. Conduit may be stored outdoors racked above ground to prevent accumulation of water and mud on exterior and interior of conduit.

1.5 SUBMITTALS

C. Product Data:

1. Submit product data for the following items:

k. Conduit and fittings

PART 2 - PRODUCTS

2.1 GENERAL REQUIREMENTS

C. Methods of fabrication, assembly and installation are optional unless otherwise specifically stated.

PART 3 - EXECUTION

3.1 GENERAL

E. The trade size, type and general routing and location of conduits, raceways, and boxes are shown on the Contract Drawings.

F. Install exposed conduit so as to avoid conflicts with other work. Install horizontal raceway close to the ceiling or ceiling beams, and above water or other piping wherever possible.

3.2 COORDINATION

A. Electrical drawings are generally diagrammatic.

B. Lines indicating circuits on drawings are not intended necessarily to indicate points which are to be followed but only to indicate arrangement and routing.

3.3 INSTALLATION

M. Conduit and Fittings

1. General

k. Install conduit runs concealed within finished area.

2. Rigid Steel Conduit:

b. Install conduit 1 in. trade size and larger in trenches below floor and above vapor barrier encased in concrete. Conduit 3/4 in. trade size maximum may be installed in poured concrete floors.

c. Where conduit is installed in poured concrete floors with run out of floor, conceal radius bend completely within floor with only vertical run exposed.

3. The dispute which is the subject of the procurement officer's final decision involves an issue of contract interpretation: whether Dynalectric was entitled to embed certain runs of conduit in the concrete floor slab of the bus facility as opposed to such conduit being installed overhead or exposed.

Appellant contends that the contract clearly and unambiguously permitted Dynalectric to embed in the floor slab those conduits for circuits shown by a solid line so long as the embedment was not contrary to other provisions of the contract, applicable Code provisions, or good practice within the electrical installation industry.[1] In this regard, Appellant points to the use of solid and dashed lines to designate circuits on the electrical drawings and the "EXCEPT IN UNFINISHED AREA" language in the description for the solid line symbol set forth above. Appellant also focuses on the instruction on General Note No. 8, Drawing E1 and the language of Section 16050 ¶3.2A indicating that the electrical drawings were generally diagramatic, and the indications in Section 16050 Parts 2 and 3 that methods of installation were optional.

MTA on the other hand contends that the symbols clearly and unequivocally limited the embedment of conduit in the floor slab to those runs depicted by a dashed line. As a corollary to this interpretation, MTA asserts that conduit runs depicted by a solid line in an unfinished area indicate that the conduit be installed "overhead" or "exposed." MTA also contends that if its intepretation is not clearly and unambiguously supported by the contract, Appellant cannot prevail upon this appeal since there exists a patent ambiguity which was not brought to MTA's attention prior to bid opening.

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[1]For the most part the dispute centers around the propriety of installing or embeding in the floor of an unfinished area conduit for branch circuits depicted by a solid line.

MTA also suggests that Appellant did not actually rely on its proffered interpretation during either the prebid or construction phase of the project.[2]

4. The electrical drawings were prepared by Bernard Johnson, Incorporated, the architect/engineer. As noted in Proposed Finding of Fact No. 1, the Project included both "finished" and "unfinished" areas. Finished areas were those areas with partitions and a ceiling of some sort. While the Maintenance Building did contain a finished area, the majority of space in the Maintenance and Service & Storage Buildings of the facility consisted of unfinished areas. The Site Plan (Dwg. E-2) and the Floor Plans (Dwgs. E-4 through E-16) all contained solid and dashed lines indicating circuit wiring and raceway, as well as "homerun" symbols incorporating dashed and solid lines. Although the Electrical Legend does not show a branch circuit homerun with a dashed line, the parties agree that such a symbol indicated homerun, raceway and wiring, installed in or under the floor or underground. Many circuits on these drawings were designated by solid lines, and solid-line homerun symbols in both finished and unfinished areas.

5. After soliciting bids, Appellant initially subcontracted with Semler Electric Company for performance of the electrical work. The work was estimated for Semler Electric by its President, James Semler. Mr. Semler's bid was based on his belief that a solid line required conduit to be concealed in the ceiling or behind walls in finished areas and exposed in unfinished areas, and that a dashed line required embedment. Accordingly, he bid the branch conduit in unfinished areas shown with a solid line as exposed runs. He understood that homeruns shown with a solid line were to be located above the floor, and those with a dashed line were to be run underground.

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[2]In view of the grounds of the Board's decision herein, this specific contention will not be further considered.

However, Semler Electric encountered a problem posting bond, and Appellant re-subcontracted the work to Dynalectric. On May 3, 1985, MTA approved Dynalectric as the subcontractor for electrical work.

6. Dynalectric intended to pursue the installation work by imbedding in the floor in both finished and unfinished areas all of the 3/4-in. conduit which was to carry the branch circuits for connection with any equipment, receptacle, outlet, switch, door or anything else that was on or near the floor. Dynalectric also intended to install under the floor certain longer conduit for feeder circuits which had been depicted by solid lines in the Maintenenance and Service & Storage Buildings.

7. On or about May 30, 1985, Dynalectric prepared its Drawings E-13 and E-14 which depicted the feeder circuit conduit it planned to install under the floor in the Maintenance and Service & Storage Buildings. The drawings were first given to Appellant on June 4, 1985, but were not submitted to MTA because they depicted feeder conduit under the floor, even though the contract drawings showed those feeder runs with solid lines. Appellant had already advised Dynalectric that installation of 3/4-inch branch conduit in the floor, or placement of feeder conduit under the floor would not be allowed where the circuits were depicted by a solid line. Nevertheless, Dynalectric prevailed upon Appellant to address the matter with MTA because of its belief that the contract provided the option of placing conduit in and/or under the floor (or slab) where the circuits were depicted by a solid line in unfinished areas. A memorandum prepared by Dynalectric concerning a meeting with the MTA Resident Engineer held on June 6, 1985 to discuss embedment of conduit, reflected MTA's position that "only the pipes that were dotted on the Ber. Johnson Dwgs. and the ones they had Tim [Dynalectric's project manager] mark on our dwgs., could be installed in the slabs."

8. On June 18, 1985, Dynalectric again re-submitted its shop drawings showing under floor placement of feeder circuits designated as solid lines in unfinished areas and offered a credit of $7,384.00 to substitute lower-cost PVC raceway in lieu of IMC intermediate metal conduit raceway originally estimated for the feeders.

9. In early July 8, 1985, Dynalectric submitted its drawings for branch circuits to Appellant for approval by MTA. The drawings were returned unapproved because, according to Appellant, MTA had verbally disapproved embedment of conduit. Dynalectric then wrote Appellant on July 15, 1985, stating:

> We plan to install 3/4" IMC branch conduit . . . in the slab as described and permitted in the installation section of the specification 16050-3.3 paragraph 2b, second sentence . . . . We do not feel in anyway this is a deviation from the plans or specifications. We will proceed in this fashion unless we are advised to the contrary.

On the same day, a jobsite meeting was held between representatives of Dynalectric, Appellant, MTA and Bernard Johnson, Inc. At the meeting, Dynalectric received permission to run eleven (11) feeder conduits below the floor slab in the Maintenance and Service & Storage Buildings. With certain exceptions, Dynalectric was not permitted to run the solid-line branch conduit in the slab according to the plan shown in its drawings.

10. Following further discussions between MTA and Dynalectric on August 27, 1985, MTA's Resident Engineer reiterated his position that:

> In accordance with the electrical legend on sheet E-1 of the contract drawing, the raceway and wirings shown with a solid line are to be placed in or above ceiling or wall. Except in special cases, the approval has not been given to place them underground or in the slab on grade.

This was consistent with the Resident Engineer's interpretation that "unless there was a dash line the contractor could not put the conduit in or under the slab." Dynalectric therefore proceeded to install overhead, all branch conduits depicted by a solid line on the contract electrical drawings. While some deviations were permitted by MTA, the Resident Engineer stated at the hearing that he would have halted the pours if Dynalectric had proceeded with its plan to embed conduits in the concrete slab.

11. On December 10, 1985, Dynalectric wrote to Appellant regarding its disagreement with the direction that it could not install "3/4" conduit in the slabs of the Maintenance and Service & Storage buildings unless the conduit is shown on the contract drawings as a dashed line and reserved its right to make a claim. On December 31, 1985, Appellant forwarded to MTA Dynalectric's letter of December 10, 1985. On July 8, 1986, Dynalectric reaffirmed its intention to submit a claim. On July 12, 1986, Appellant responded that "[t]he fact Dynalectric was not allowed to install conduit in the slab was per the Mass Transit Administration's interpretation of the contract drawings and should be handled as the specifications allow."

12. By letter to Appellant dated October 3, 1986, Dynalectric submitted its claim for an equitable adjustment based upon the determination of MTA not to permit floor embedment of branch circuit conduit. The claim was forwarded to MTA by Appellant on October 23, 1986.

13. MTA denied the claim for an equitable adjustment by letter dated January 16, 1987. The letter listed those areas of the drawings where conduit embedment was allowed, i.e., where the conduit runs were shown by a dashed line. MTA acknowledged that:

> MTA did approve exemptions in cases where motors, lights, outlets, switches and panels were on or near the floor slab.

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> Reasonable requests for inclusion of conduits in the slabs were not rejected; the MTA has prepour photographs showing embedded conduit to support this contention.

MTA also acknowledged that it had granted "permission to waive overhead routing in cases where embedment was clearly more practical." An MTA Project Manager, explained at the hearing that embedment of some solid-line circuit conduits was permitted because to install overhead would, in these cases, have resulted in a "heck of a mess." Because he believed that "unless there is a dashed line you can't conceal the conduit", the Project Manager considered the permitted embedments to be corrections to the contract drawings according to his interpretation.

14. Dynalectric resubmitted a request for an equitable adjustment on March 10, 1988 which specifically directed MTA to the contract provisions upon which its claim was based. The request in the amount of $336,527.00 was forwarded by Appellant to MTA on March 11, 1988 along with Appellant's markups, and charges for increased insurance and bond premiums, and a procurement officer's final decision was requested.

15. On September 19, 1988, the procurement officer issued his final decision on the Appellant/Dynalectric claim. In relevant part the procurement officer stated that:

> above floor conduit is depicted by a solid line. . . . Dynalectric attaches a variable meaning to the solid line symbol which is dependent upon whether the building area is finished or unfinished.

The Procurement Officer found this interpretation:

> to be a strange, unreasonable, and unacceptable interpretation of these symbols. It ignores an accepted practice of using solid lines to show generally visible items and dashed lines to indicate items installed in, under, or behind visible items. It is clear that the use of a solid line in the contract drawings indicates conduit which is generally visible except, as the legend states, when it is 'concealed

> in or above ceiling or wall'; a solid line was used so as to contrast with the dashed line symbol used for conduit 'hidden' in or under the floor or ground.

The Procurement Officer also rejected Dynalectric's reliance on Section 16050 ¶¶ 2.1C and 3.2A of the specifications as well as Note 8 on Contract Drawing E-1, stating that:

> [T]he issue is neither the method of fabrication, assembly, or installation nor the precise location of conduit in either two or three dimensional space. The issue presented by this claim is the location of the conduit with respect to the floor - whether conduit designated by solid line in the electrical drawings had to be located above the floor or whether it was permissible to locate it in or below the floor. Dynalectric's citations are neither helpful nor relevant with respect to this issue.

Accordingly, the claim was denied and Appellant timely noted its appeal on October 19, 1988.[3]

16. There is no evidence that Dynalectric's proposed conduit embedments were violative of any applicable Codes or accepted standards of good electrical installation practice.

17. Neither Appellant not Dynalectric made any prebid inquiry concerning the embedment of conduit depicted by a solid line, and there is no evidence that either Apellant or Dynalectric was aware of MTA's proffered interpretation at the time of bid, contract award, or at any other time before the conduit installation issue arose in the Spring of 1985.

Decision

The issue to be determined is whether, for branch circuits designated by solid lines in unfinished areas, Dynalectric was given the option to install conduit in or under the floor slab.

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[3] The Board initially issued a proposed decision pursuant to COMAR 21.10.06.26 on January 5, 1990. Appellant filed exceptions on February 8, 1990. MTA responded thereto on February 23, 1990 and the parties presented oral argument on the exceptions on March 26, 1990.

The dispute centers around the proper interpretation of certain symbols used on the Contract Drawings and appearing in the Electrical Legend of Contract Drawing E-1. The first symbol, a solid line (——), is described as "RACEWAY AND WIRING, CONCEALED IN OR ABOVE CEILING OR WALL, EXCEPT IN UNFINISHED AREA." The second symbol, a dashed line (– – –), is described as "RACEWAY AND WIRING, INSTALLED IN OR UNDER FLOOR OR UNDERGROUND."

MTA asserts that the only reasonable interpretation of the contract is that installation of conduit in or under the floor is not permitted where a solid line appears and that at best the contract is ambiguous regarding such installation. MTA also asserts that if the contract is ambiguous respecting the placement of conduit that such ambiguity is patent requiring prebid inquiry for Appellant to prevail. Appellant on the other hand asserts that the verbiage "except in unfinished area" appearing in the description of the solid line symbol removes any potential ambiguity and properly interpreted in harmony with other provisions of the contract clearly gives Appellant the option to embed in the floor conduit depicted by a solid line in unfinished areas. To the extent that ambiguity might be found to exist, Appellant asserts that it is latent.

The Board must consider the following principles applicable to public contract disputes in order to resolve the matter.

First, the board must determine whether examination of the description of the electrical symbols and other applicable contract provisions regarding conduit installation leads to an ambiguity regarding the propriety of floor versus above floor installation of conduit. If there is no ambiguity; i.e. if there are not at least two reasonable interpretations of the meaning of the

the contract relative to conduit installation[4] then either Appellant or MTA prevail without further ado. See Intercounty Construction Corporation, MDOT 1036, 2 MSBCA ¶164 (1987). If there is ambiguity concerning conduit installation, then the Board must determine whether the ambiguity is patent, i.e. obvious, or latent, i.e., subtle or hidden. This is often a difficult task and generally it is helpful to ask initially whether the contractor's interpretation does away with the contract's ambiguity or internal contradiction. See American Building Contractors, Inc., MSBCA 1125, 1 MSBCA ¶104 (1985) at pp 6-7.

Should the Board decide that the ambiguity is patent, the doctrine of patent ambiguity requiring prebid inquiry for a contractor to prevail comes into play.[5]

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[4]Stated another way, a contract is ambiguous if it sustains the interpretations advanced by both parties. Avedon Corp. v. U.S., 15 Cl. Ct. 771, 776 (1988); Max Drill, Inc. v. United States, 192 Ct. Cl. 608, 627 (1970).

[5] The importance of the doctrine of patent ambiguity (which doctrine is followed by this Board) has been summarized by the U.S. Court of Claims as follows

> . . . If a patent ambiguity is found in a contract, the contractor has a a duty to inquire of the contracting [procurement] officer the true meaning of the contract before submitting a bid. [citations omitted]. This prevents contractors from taking advantage of the Government; it protects other bidders by ensuring that all bidders bid on the same specifications; and it materially aids the administration of Government contracts by requiring that ambiguities be raised before the contract is bid on thus avoiding costly litigation after the fact. [citations omitted].

George E. Newsom v. United States, 230 Ct.Cl. 301, 303, 676 F.2d 647 (1982).

The practical application of this doctrine may be summarized as follows:

> . . . First, the court [Board] must ask whether the ambiguity was patent. This is not a simple yes-no proposition but involves placing the contractual language at a point along a spectrum: Is it so glaring as to raise a duty to inquire? [citation omitted]. Only if the court [Board] decides that the ambiguity was not patent does it reach the question whether a plaintiff's interpretation was reasonable. [citation omitted]. The existence of a patent ambiguity in itself raises the duty of inquiry, regardless of the reasonableness vel non of the contractor's

In making the determination concerning whether an ambiguity exists, the particular provision(s) involved should not be viewed in isolation but should be read and interpreted in the context of all other conceivably relevant provisions of the contract, Adolf Baer, P.D. and Apothecaries, Inc., MSBCA 1285, 2 MSBCA ¶146 (1987) at p. 4, and words used in the particular provision(s) should be given their ordinary everyday meaning. Id. As a corollary, we observe that a contract should if reasonably possible be construed to give effect to all of its provisions such that no provision is disregarded. Granite Construction Company, MDOT 1011, 1 MSBCA ¶8 (1981) at p. 12. We also observe that just because the parties disagree on the interpretation of the contract does not of itself make the contract ambiguous. Intercounty Construction Corporation, MDOT 1036, supra.

Finally, we note that when the meaning of a contract is clear and unambiguous it is inappropriate to consider extrinsic evidence to explain a party's different interpretation of its meaning, Dominion Contractors, Inc., MSBCA 1040, 1 MSBCA ¶18 (1982) at p. 8; Intercounty Construction Corporation, supra, since the written language embodying the terms of an agreement will govern the rights and liabilities of the parties, irrespective of the intent of the parties at the time that they entered the contract, unless the written language is not susceptible of a clear and definite understanding. Cam Construction Company, MSBCA 1088, 1 MSBCA ¶62 (1983) at p. 8.

We will now examine the dispute in light of the foregoing.

> interpretation. [citations omitted]. . . . The court [Board] may not consider the reasonableness of the contractor's interpretation, if at all, until it has determined that a patent ambiguity did not exist.

George E. Newsom v. United States, supra at 230 Ct.Cl. 304 citing Mountain Home Contractors v. United States, 192 Ct. Cl. 16, 425 F.2d 1260 (1970).

Each party argues that its interpretation of the contract is the only reasonable one. MTA asserts that its reading of the contract that a solid line symbol always requires installation of conduit exposed and a dashed line symbol always requires installation of conduit concealed is the only reasonable one. Because there are no walls or ceilings in unfinished areas behind which to conceal conduit for branch circuits it argues that the exception ("except in unfinished area") states the obvious and a contractor should understand that conduit represented by a solid line was required to be installed exposed above the floor. Noting that effect should be given to all parts of a contract, MTA argues that Appellant's interpretation would render the distinction between a dashed line and solid line meaningless. MTA further asserts that the indication that the electrical drawings are generally diagramatic and the verbiage of the specifications regarding method of installation deal with routing of the conduit and not whether it is exposed or concealed.

Appellant on the other hand asserts that its interpretation is the only reasonable one and focuses on the words of the exception ("except in unfinished area") as words to be read literally which reading in harmony with the indication that the electrical drawings were generally diagramatic and methods of installation optional it contends gave the contractor the option (i.e. "permitted" it) to install conduit for branch circuits represented by a solid line in unfinished areas either exposed above the floor or imbedded in the floor.

While both parties have advanced excellent argument in support of their respective positions that the contract is susceptible of but one reasonable interpretation, the Board finds nevertheless that the contract is ambiguous. There are two possible and reasonable interpretations of the meaning of the contract apparent from a reading of the electrical symbols and other pertinent contract provisions. One meaning is that asserted by MTA, i.e., that embedment of branch circuit conduit in the floor is limited to those runs depicted by a dashed line. The other meaning as asserted by Appellant is that the contract gave Appellant (Dynaelectric) the option to embed conduit in unfinished areas where a solid line depicts the runs because of the instruction on Drawing E1 and the language of Section 16050 ¶3.2 indicating that the electrical drawings were diagramatic, the indications in Section 16050 Parts 2 and 3 that methods of installation were optional and most particularly the "except in unfinished area" language appearing in the description of a solid line symbol.

As noted, both interpretations are apparent from a review of the contract documents. Resort to the Appellant's interpretation does not resolve the conflict. Extrinsic evidence, however, does seem to favor the MTA interpretation. Appellant's original subcontractor, Semler, apparently construed the contract as MTA did. The expert testimony of MTA appears to be qualitatively more persuasive on the issue. The various inconsistencies in the drawings (i.e. in parking areas) pointed out by Appellant that result from the MTA position that a solid line means above floor or exposed installation may

be explained away as drafting errors. However, despite the conclusions to be drawn from consideration of such evidence,[6] Appellant's interpretation is not shown to be merely devised and the contract remains ambiguous.

Since both interpretations are immediately apparent on the face of the contract, and the manner of conduit emplacement considering the nature of the work involved is not inconsequential, we find the ambiguity to be patent, i.e. obvious or glaring. As such, Appellant was required by the doctrine of patent ambiguity to seek prebid clarification of the intended meaning of the contract in order for the Board to legally consider whether its presently asserted intepretation falls within the zone of reasonableness. Appellant made no inquiry prior to bid and therefore it is bound by the MTA interpretation. American Building Contractors, Inc., MSBCA 1125, supra. Dynalectric as Appellant's subcontractor and in any event having made no independent inquiry is likewise bound. See Hanks Contracting, Inc., MSBCA 1212, 1 MSBCA ¶110 (1985). The appeal is therefore denied.

Dated: March 29, 1990

Robert B. Harrison III
Chairman

[6] In considering the evidence presented on the issue we have placed no reliance on either party's contention concerning what the pricing information contained in the Apellant's bid documents purportedly reveals as to Appellant's actual understanding of permissable methods of installation of conduit; nor have we considered the amount of the requested equitable adjustment as a percentage of the total subcontract price as having any relevant bearing at least under the facts of this appeal.

I concur:

Sheldon H. Press
Board Member

Neal E. Malone
Board Member

* * *

I certify that the foregoing is a true copy of the Maryland State Board of Contract Appeals decision in MSBCA 1419, appeal of CENTEX CONSTRUCTION COMPANY, INC., under MTA Contract No. 3-32-3.

Dated: March 30, 1990

Mary E. Priscilla
Recorder