



THE OSGOODE CERTIFICATE IN CONSTRUCTION LAW

November 27-December 1, 2017
5 consecutive days
In Person

Can you confidently manage legal risk on construction projects?

An expert faculty of over 20 senior legal and construction experts will deliver crucial construction law concepts, including:

- The key participants and their roles in various forms of project delivery
- Different types of construction contracts in general use, and their key terms
- Bidding and tendering
- Liens: preservation, perfection and the holdback system
- Alternative approaches to quantifying and evaluating delay and impact claims

Register today at:

osgoodepd.ca/constructionlaw

Certificate Details

PROGRAM DIRECTORS

Geza R. Banfai, McMillan LLP

Yonni Fushman, Executive Vice President, Chief Legal Officer and Secretary, Aecon Group Inc.

Howard Krupat, DLA Piper (Canada) LLP

LOCATION

Osgoode Professional Development

1 Dundas St. West, 26th Floor, Toronto, ON



Drawing on the expertise and experience of an outstanding faculty of senior legal and construction professionals, including:

Program Directors



Geza R. Banfai

McMillan LLP



Yonni Fushman

Executive Vice President, Chief Legal Officer and Secretary, Aecon Group Inc.



Howard Krupat

DLA Piper (Canada) LLP

Program Faculty

Glenn W. Ackerley, WeirFoulds LLP

Michael Atkinson, President, Canadian Construction Association

Michael Atlas, Associate General Counsel, Legal Department, Toronto Transit Commission

Ian Bendell, DLA Piper (Canada) LLP

Daniel A. Boan, Borden Ladner Gervais LLP

Charles Caza, SVP, General Counsel & Corporate Secretary, Bird Construction

Richard J. Charney, Norton Rose Fulbright Canada LLP

John G. Davies, John G. Davies, Architect, Incorporated

Tamara Farber, Miller Thomson LLP

Franklin Holtforster, Colliers Project Leaders

Thomas G. Heintzman, O.C., Q.C., FCI Arb., Heintzman ADR

Helmut K. Johannsen, Singleton Urquhart LLP

Rick Moffat, Berkeley Research Group, LLC

Marcia J. Oliver, CS (Construction Law), Advocates LLP

Paul Raboud, Bird Construction

Megan Sanford, McLaughlin & Associates

Charles Todd, Associate General Counsel, Aecon Group Inc.

Sharon C. Vogel, Borden Ladner Gervais LLP

Jeremy Warning, Mathews, Dinsdale & Clark LLP

Master Charles G. T. Wiebe, Superior Court of Justice

Richard Wong, Osler, Hoskin & Harcourt LLP

“I wish I had taken this course a long time ago. It opened my eyes about contracting and applicable legal implications.”

Yves Losier, Commercial Manager, EHV Power ULC

The Osgoode Certificate in Construction Law

Today's construction projects are highly complex, and present an array of challenging risks and obligations for all stakeholders. A comprehensive understanding of key issues and the potential exposure to liability in this high-stakes area is essential. Participants will develop a thorough understanding of the core legal issues impacting construction projects today, and will come away better equipped to effectively manage risk.

In this unique, intensive, comprehensive five-day certificate course, now in its seventh year, over 20 senior legal and construction professionals will cover what you need to know from contract formation through to dispute resolution. Throughout the program there will be an emphasis on practical, real world situations and ample opportunity for questions and class discussion.

In addition to the plenary presentations throughout the week, you will benefit from multiple **small group, learn by doing workshops** where you will have the chance to apply what you've learned.

Topics include

- Latest update on *Lien Act* reforms, prompt payment initiatives and potential new adjudication processes
- Differing types of P3 arrangements used in Canada, and the roles of key participants
- Key advanced issues in construction contracts, how to assess the limitations of standard forms and the differing alternatives available
- Exploring business drivers that inform construction contracts
- How to succeed in dispute resolution, including the role of mediation, arbitration and litigation
- Recurrent issues in construction claims, including delay and impact claims, unanticipated site conditions and changes of scope, extras, productivity, and limitations issues
- The proper roles of the Project Manager and Designer
- The top five issues in five closely related topics: Health & Safety, Labour, Environmental, Insurance and Bonding

Who Should Attend?

- Owners and developers
- Builders and construction professionals
- Architects
- Engineers
- Construction procurement professionals
- Construction industry consultants
- Mediators and arbitrators of construction disputes
- Construction, municipal and real estate lawyers
- In-house counsel
- Anyone who is engaged with construction projects, whether as a project sponsor with the client, project manager, construction manager or other consultant



Agenda

Day 1 – November 27, 2017
9:00 am - 5:00 pm EST

*Registration and Continental Breakfast at 8:30am

Project Delivery Models

Project Delivery Models

Expert instructors will provide a detailed and practical analysis of the differing contracting models in common use in construction project delivery, from conventional models (bid-build) to cutting edge approaches such as Integrated Project Delivery. The discussion will also include considerations of the risk profile and other determinants favouring each method in particular circumstances. The day will conclude with an interactive “choose the model” workshop, in which you will apply the lessons learned from Day 1 to typical scenarios to demonstrate the considerations that must be evaluated and balanced in choosing the right model for your contract.

Public-Private Partnerships

Essential guidance on P3 arrangements as used in Canada, including explanations of various transaction structures and the different risks and opportunities that distinguish P3s from traditional delivery models.

Special Luncheon Address:

The Canadian Construction Industry

Michael Atkinson, President, Canadian Construction Association

Faculty:

Geza Banfai, McMillan LLP

Ian Bendell, DLA Piper (Canada) LLP

Richard Wong, Osler, Hoskin & Harcourt LLP

Day 2 - November 28, 2017
9:00 am - 5:00 pm EST

Construction Contracts

Key Terms in Construction Contracts

An examination of the most significant risk transfer and legal points in construction contracts, including indemnities, liability caps, schedule delay, warranties and *force majeure* provisions, as well as additional considerations and complications in subcontracts. Learn about the application of recent landmark legal decisions to construction contracts.

Exploring Business Drivers in Construction Contracts

A panel discussion with representatives of each major aspect of a construction contract will teach you the business drivers that lead to the legal terms in construction contracts. Discussion will include cash flow / payment issues, bonding and security, ethical due diligence, labour resources, pricing risk, safety, budget and political considerations.

Negotiating Construction Contracts

Contracts are not simply a reflection of legal principles; they reflect a business deal and the risk allocation that each of the parties is prepared to accept. During this innovative small-group workshop, you will negotiate the key terms of a construction contract, working through a variety of issues that commonly emerge, from various types of delays to construction disputes.

Special Luncheon Address:

Top 10 Construction Law Issues

Thomas G. Heintzman, O.C., Q.C.,
FCI Arb., Heintzman ADR

Faculty:

Charles Caza, SVP, General Counsel & Corporate Secretary, Bird Construction

Yonni Fushman, Executive Vice President, Chief Legal Officer and Secretary, Aecon Group Inc.

Marcia J. Oliver, CS (Construction Law), Advocates LLP

Charles Todd, Associate General Counsel, Aecon Group Inc.

Day 3 - November 29, 2017
9:00 am - 5:00pm EST

Bidding & Tendering, Dispute Resolution, Claims

Bidding & Tendering: Basic Principles

This session will examine the basic principles governing the Canadian law of bidding and tendering, including the origins and evolution of the Contract A/Contract B paradigm and new developments in this ever evolving area of law.

How to Succeed in Dispute Resolution

Projects and the disputes related to them are becoming increasingly complex. This discussion will cover the basics of mediation, arbitration and litigation, as well as the mechanics of settling a case.

Construction Claims

Over two consecutive sessions, expert faculty will guide you through an in-depth analysis of common construction claims. The first session will focus on the legal issues underlying construction claims, including recent developments in the law of notice. The second session will focus on productivity, delay and impact claims, including causes of lost productivity, quantifying the loss, critical path analysis and limitation issues.

Special Luncheon Address:

Master Charles G. T. Wiebe, Superior Court of Justice

Faculty:

Glenn W. Ackerley, WeirFoulds LLP

Geza R. Banfai, McMillan LLP

Helmut K. Johannsen, Singleton Urquhart LLP

Rick Moffat, Berkeley Research Group, LLC

Agenda

Day 4 - November 30, 2017
9:00 am - 5:00 pm EST

Liens, the Project Manager and the Designer

Construction Liens: Basic Principles

This session will cover the basic concepts and terminology underlying lien legislation, with a cross-Canada comparison of key differences between various provincial construction lien acts. You will learn how issues such as the nature of the lien, preservation and perfection of the liens and the holdback system are addressed.

Lien Reform, Prompt Payment and Adjudication

This panel discussion, moderated by an Advisory Panel member in Ontario's Lien Act Reform initiative, will explore the business issues driving various initiatives for reform, the legislative responses, and the potential implications of the most significant aspects of reform, including prompt payment legislation and adoption of a UK-style adjudication mechanism to expeditiously resolve disputes. Panelists representing the general contractor, owner, and subcontractor perspectives will engage in a lively discussion.

The Role of the Project Manager and Designer

Over two discreet sessions, an expert project manager and architect with years of combined experience will illuminate their respective roles on construction projects. Using real world examples, you will leave these sessions with practical tips and guidance on how you can work most effectively with these professionals on your next project.

Faculty:

Michael Atlas, Associate General Counsel, Legal Department, Toronto Transit Commission

John G. Davies, John G. Davies, Architect, Incorporated

Franklin Holtforster, Colliers Project Leaders

Howard Krupat, DLA Piper (Canada) LLP

Paul Raboud, Bird Construction

Megan Sanford, McLaughlin & Associates

Day 5 - December 1, 2017
9:00 am - 5:00 pm EST

Top Five Issues in Five Areas of Law that Affect Construction

Occupational Health and Safety Issues in Construction

This session will provide an overview of the key principles and liabilities of the various parties in the construction process under the *OHSA*, including constructor liability and the appropriate responses to accidents and investigations.

Construction Labour Law

Nothing affects the day to day execution of construction projects more than labour law. An expert in the field will provide an overview of key topics in construction labour law, including getting bound (the law of certification, union raids and voluntary recognition); strikes, lockouts and picketing; accredited and designated employer associations; grievances and arbitration; and jurisdictional disputes.

Environmental Law Issues that Impact Construction

Whether a construction project is in an urban centre, adjacent to a body of water, or hundreds of kilometers from a city, environmental issues impact the planning and execution of the project. This session will address key environmental law topics that impact construction, including: planning and timing for Records of Site Condition, finding contamination mid construction, vapour intrusion, excess soil management and avoiding or managing regulatory involvement.

Construction Insurance

Learn about the specialized insurance issues particularly relevant to the construction process, including a review and comparison of the differing types of insurance available, considerations of risk assessment and the proper choice of insurance in differing project delivery scenarios.

Surety Bonding

This presentation will review the essential role of the surety in the construction process, including: the underlying principles of surety bonding; the role of the surety, the principal and the obligee; the types of bonds typically used in construction; and the legal and practical aspects of asserting claims and defences under bonds.

Faculty:

Daniel A. Boan, Borden Ladner Gervais LLP

Richard J. Charney, Norton Rose Fulbright Canada LLP

Tamara Farber, Miller Thomson LLP

Sharon C. Vogel, Borden Ladner Gervais LLP

Jeremy Warning, Mathews, Dinsdale & Clark LLP



“The content of this program and the experience this week has been invaluable. This course should be considered a must for senior leaders of owner organizations and institutions.”

Stephen Emery, Vice President, Asset Management, Infrastructure Ontario

“Thank you for putting together this course, I believe it will make me a better contractor.”

Danny Napoli, Project Manager, Summit Forming Ltd.

“I’m so impressed and pleased beyond words at the caliber of all faculty this whole week.”

Pina Aloia, Project Manager, Aloia Bros. Concrete Contractors Ltd.

Registration Details

Fee per Delegate

\$3,995 plus HST

Fees include attendance, program materials, continental breakfast, lunch and break refreshments for each of the 5 days of the program. The price does not include accommodation. Please inquire about group discounts and financial assistance. Dress is business casual.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University’s and Osgoode Hall Law School’s liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 21 days prior to the program date. If a cancellation request is made with less than 21 days notice, a \$150 administration fee will apply. No other refund is available.

For Further Program-Related Information please contact:

Jessica Foster, Program Lawyer at 416.673.4673 or email jfoster@osgoode.yorku.ca

Certificate of Program Completion

You will receive a certificate upon completion of the Osgoode Certificate in Construction Law. Participants must attend all program modules and pass the post-program multiple choice assessment to receive a certificate.

Register today at:

osgoodepd.ca/constructionlaw



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.



LSUC (ON): 35h CPD Hours (3h Professionalism; 32h Substantive)

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca



This program has been accredited by the CCA for 5 credits towards Gold Seal Certification's education requirement.

CANADIAN CONSTRUCTION
ASSOCIATION
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