

# THE OSGOODE CERTIFICATE IN CONSTRUCTION LAW

October 29 – November 2, 2018  
5 Consecutive Days | In-Person only

## Can you confidently manage legal risk on construction projects?

**Now in its 8th year!** Join 30+ senior legal and construction specialists to learn the skills and knowledge you need in crucial construction law concepts, including:

- Project delivery models and the key participants
- Construction contracts in general use and their key terms and issues
- Bidding and tendering, delay and impact claims, claims issues and dispute resolution
- Liens, legal reforms, prompt payment and adjudication, and construction project perspectives 360°
- Insurance, bonding and surety, health and safety and labour

Register today at:

[osgoodepd.ca/constructionlaw](http://osgoodepd.ca/constructionlaw)

## Program Directors

**Geza R. Banfai**  
McMillan LLP

**Yonni Fushman**  
Executive Vice President & Chief  
Legal Officer, Aecon Group Inc.

**Howard Krupat**  
DLA Piper (Canada) LLP

## Location

Osgoode Professional  
Development  
1 Dundas St. W., 26th Floor  
Toronto, ON





## Get Practical Tips & Strategies in areas including:

- Project delivery models used in Canada and when to use them
- P3 arrangements and the roles of key participants
- Advanced issues in construction contracts, including assessing limitations and negotiation strategies
- Bidding and tendering principles, special issues and emerging trends
- Sweeping legal reforms rolling across Canada, including prompt payment and adjudication regimes
- Construction project challenges from various stakeholder perspectives including: procurement authority, lender, project manager, designer, subcontractor and utility provider
- Insights 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, changes of scope, extras, productivity, and limitations
- Health & Safety, Labour, Insurance and Bonding

## Who Should Attend?

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

# The Osgoode Certificate in **CONSTRUCTION LAW**

## 5 Comprehensive Days of Targeted Learning

- Classroom setting to enhance participation
- Interactive instructional sessions
- Expert demonstrations and panel discussions
- Learn-by-doing skills workshops

***Back for its 8th year!*** Today's construction projects are highly complex with numerous challenging risks and obligations to all stakeholders. A comprehensive understanding of key issues and potential liability exposures in this high-stakes area is essential. This in-depth, practical 5-day Certificate course, developed for both industry and legal professionals, covers what you need to know from contract formation to dispute resolution.

Learn from a truly exceptional faculty of 30+ construction specialists who are fluent in the issues unique to construction in Canada. You will develop a thorough understanding of the core legal issues impacting construction projects today and emerge better equipped to effectively manage risk and minimize exposure to costly liability.

### **Practical and Experiential Learning**

This program will focus on practical, real world situations and provide ample opportunity for hands-on learning, questions and class discussion. In addition to instructional sessions, you will benefit from small group, learn-by-doing workshops where you will have an opportunity to apply what you've learned. Your understanding of project delivery models will be reinforced during an interactive "choose your model" workshop, and you will negotiate a construction contract "live" from the perspective of owner or contractor.

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

## Program Directors



**Geza R. Banfai**

McMillan LLP



**Yonni Fushman**

Executive Vice President & Chief  
Legal Officer, Aecon Group Inc.



**Howard Krupat**

DLA Piper (Canada) LLP

## Program Faculty

**Glenn Ackerley**, WeirFoulds LLP

**Michael Atlas**, Associate General  
Counsel, Toronto Transit Commission

**Shelley Babin**, Vice President, Law  
& General Counsel, Ontario Power  
Generation

**Geza R. Banfai**, McMillan LLP

**Ian Bendell**, DLA Piper (Canada) LLP

**Daniel Boan**, Borden Ladner Gervais  
LLP

**Richard Charney**, Norton Rose Fulbright  
Canada LLP

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

**Zey Emir**, Chair, Canadian Construction  
Association, and President, Revay and  
Associates Limited

**Annik Forristal**, McMillan LLP

**Yonni Fushman**, Executive Vice  
President & Chief Legal Officer, Aecon  
Group Inc.

**Franklin Holtforster**, President and CEO,  
Corporate, Colliers Project Leaders

**Helmut Johannsen**, Singleton Urquhart  
Reynolds Vogel LLP

**Harvey Kirsh**, Arbitrator, Mediator,  
Adjudicator, Kirsh Construction ADR  
Services Ltd

**Howard Krupat**, DLA Piper (Canada) LLP

**Kathryn Lack**, General Counsel, Maple  
Reinders Group Ltd.

**Rick Moffat**, Managing Director,  
Berkeley Research Group, LLC

**Tim Murphy**, McMillan LLP

**Andrew O'Brien**, Director – Surety Risk,  
Travelers Insurance Company of Canada

**Marcia Oliver**, Certified Specialist,  
Construction Law, Advocates LLP

**Paul Raboud**, Chair, Ontario General  
Contractors Association, and Director,  
Bird Construction

**Kevin Radford**, Assistant Deputy  
Minister, Real Property Services, Public  
Services and Procurement Canada

**Conrad Sheppard**, Director, Corporate  
Governance & Commercial Legal  
Services, Toronto Hydro

**Clive Thurston**, President, Ontario  
General Contractors Association

**Eric Tilley**, General Counsel, Transaction  
Services & Corporate Legal,  
Infrastructure Ontario

**Charles Todd**, Associate General  
Counsel, Aecon Group Inc.

**Phil Verster**, President & Chief  
Executive Officer, Metrolinx

**Sharon Vogel**, FCI Arb, Singleton  
Urquhart Reynolds Vogel LLP

**Jeremy Warning**, Mathews, Dinsdale &  
Clark LLP

**Richard Wong**, Osler, Hoskin & Harcourt  
LLP



# Agenda

## MODULE 1

October 29, 2018  
9:00 am - 5:00pm EDT  
**Project Delivery Models**

### Project Delivery Models

A detailed and practical analysis of the project delivery and contracting models in common use in Canada. Discussion will include risk profile considerations and other determinants favouring each method in particular circumstances. Includes: Design-Bid-Build, Design-Build, Construction Management and EPC/EPCM models.

### Public-Private Partnerships (P3s)

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.

### Integrated Project Delivery (IPD)

A detailed and practical analysis of IPD, the cutting edge approach to construction project delivery. Considerations of the risk profile and other determinants favouring this method in particular circumstances will be discussed.

### Interactive Workshop: Project Delivery Models

The day will conclude with an interactive “choose your model”, small group workshop where you will apply lessons learned to typical scenarios. You will have the opportunity to demonstrate the considerations that must be evaluated and balanced to choose the right project delivery model for your contract and get feedback from acknowledged leaders.

### Special Luncheon Address:

*Zey Emir, Chair, Canadian Construction Association, and President, Revay and Associates Limited*

## Faculty

**Geza R. Banfai**, McMillan LLP

**Ian Bendell**, DLA Piper (Canada) LLP

**Richard Wong**, Osler, Hoskin & Harcourt LLP

## MODULE 2

October 30, 2018  
9:00am - 5:00pm EDT  
**Construction Contracts**

### Key Terms in Construction Contracts

Examine 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. You will also learn about the application of recent landmark legal decisions to construction contracts.

### A Practical Guide to Navigating the Construction Contract

Building on the Key Terms in Construction Contracts session, you will learn “how” to navigate your construction contract as a “rule book”, including key directional points and pivots. Get expert insights, practical advice and risk management tools to avoid unexpected risk transfer, disputes and claims.

### Interactive Workshop: Negotiating Construction Contracts

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

### Special Luncheon Address:

*Clive Thurston, President, Ontario General Contractors Association*

### SAVE THE DATE!

Post-Program Networking Event (optional).  
Time & location to be announced.

## Faculty

**Yonni Fushman**, Executive Vice President & Chief Legal Officer, Aecon Group Inc.

**Charles Todd**, Associate General Counsel, Aecon Group Inc.

**Plus!** Expert facilitators will provide you with live guidance and personalized feedback during the small group, interactive workshop

## MODULE 3

October 31, 2018  
9:00am-5:00pm EDT  
**Bidding & Tendering, Claims & Dispute Resolution**

### Bidding and Tendering: *Fundamental Principles*

Learn the basic principles governing the Canadian law of bidding and tendering, including the origins and evolution of the Contract A/Contract B paradigm and the principle of compliance in this ever-evolving area of law. The session will include a review of the formative legal authorities and new developments.

### Bidding and Tendering: *Advanced Issues*

You'll get an in-depth review of advanced problems impacting bidding and tendering, including the treatment of privilege and discretion clauses after *Tercon*, judicial review as a remedy, and emerging issues and trends, including pitfalls to watch out for.

### Construction Claims: Extras, Change of Scope & Productivity, Delay and Impact Claims

In-depth analysis of common construction claims across two sessions. 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.

### How to Succeed in Dispute Resolution

Project disputes are increasingly complex. This session will cover the basics of mediation, arbitration and litigation, as well as the mechanics of settling a case. Limitations and evidentiary issues will be discussed, including “lessons learned” and tips to avoid common pitfalls. You will have an opportunity to apply your learning and reinforce key concepts during an interactive exercise.

### Special Luncheon Address:

*Shelley Babin, Vice President, Law & General Counsel, Ontario Power Generation*

## Faculty

**Glenn Ackerley**, WeirFoulds LLP

**Geza R. Banfai**, McMillan LLP

**Helmut Johannsen**, Singleton Urquhart Reynolds Vogel LLP

**Rick Moffat**, Managing Director, Berkeley Research Group, LLC

## MODULE 4

**November 1, 2018**  
**9:00 am-5:00pm EDT**  
**Liens, Reforms & Construction**  
**Project Perspectives 360°**

### **Lien Reform, Prompt Payment & Adjudication in Canada**

Expert faculty will cover the major legal reforms – in place or anticipated – which will create sweeping changes to the Canadian construction industry. This session will provide a background and examine the key lien reforms, new regimes including prompt payment and adjudication, and provide crucial advice and strategies to help you navigate the changes and make the new processes work for you.

### **Panel Discussion: Prompt Payment & Adjudication in Canada**

Moderated by an Advisory Panel member in Ontario's *Lien Act* Reform initiative, industry specialists will explore the wave of prompt payment and adjudication legislation rolling across Canada and highlight the key business or operational implications of the most significant aspects of reform, and share their practical tips & takeaways. Panelists representing the owner, general contractor, subcontractor and insurance/risk perspectives, will engage in a lively, interactive discussion.

### **Construction Project Perspectives 360°**

This engaging round table discussion will dissect key construction project challenges from a cross-section of stakeholders, with expert insights, tips and strategies on real-world issues from procurement to dispute resolution and also highlight emerging issues. Perspectives include the lender, procurement authority, project manager, designer and utility provider.

### **Negotiation Demonstration: Key Terms in Design Contracts**

You will observe legal and industry specialists demonstrate key design contract negotiation strategies and best practices. Faculty will break-down the key components and critical factors to consider including contractor concerns, designer concerns, the negotiation plan, how to secure pre-agreements, key contractual issues to watch out for and a final debrief and interactive discussion.

You will emerge from this session better equipped to negotiate effectively with professionals on your next design project.

### **Special Luncheon Address:**

*Phil Verster, President & Chief Executive Officer, Metrolinx*

## Faculty

**Michael Atlas**, Associate General Counsel, Toronto Transit Commission

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

**Annik Forristal**, McMillan LLP

**Franklin Holtforster**, President & CEO, Corporate, Colliers Project Leaders

**Howard Krupat**, DLA Piper (Canada) LLP

**Kathryn Lack**, General Counsel, Maple Reinders Group Ltd.

**Tim Murphy**, McMillan LLP

**Andrew O'Brien**, Director – Surety Risk, Travelers Insurance Company of Canada

**Marcia Oliver**, Certified Specialist, Construction Law, Advocates LLP

**Paul Raboud**, Chair, Ontario General Contractors Association, and Director, Bird Construction

**Kevin Radford**, Assistant Deputy Minister, Real Property Services, Public Services and Procurement Canada

**Conrad Sheppard**, Director, Corporate Governance & Commercial Legal Services, Toronto Hydro

**Eric Tilley**, General Counsel, Transaction Services & Corporate Legal, Infrastructure Ontario

## MODULE 5

**November 2, 2018**  
**9:00am-5:00pm EDT**  
**Top Five Issues in Critical Areas of Law that Affect Construction**

### **Occupational Health and Safety Issues in Construction**

An overview of fundamental cross-country principles and liabilities of the various parties in the construction process under occupational health and safety legislation, including constructor liability and the appropriate responses to accidents and investigations.

## Surety Bonding

A comprehensive review of 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.

## Construction Insurance

Learn about specialized insurance issues particularly relevant to the construction process, including key cross-country principles and 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.

## 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 across Canada, 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.

### **Special Luncheon Address:**

*Harvey Kirsh, Arbitrator, Mediator, Adjudicator, Kirsh Construction ADR Services Ltd*

## Faculty

**Geza R. Banfai**, McMillan LLP

**Daniel Boan**, Borden Ladner Gervais LLP

**Richard Charney**, Norton Rose Fulbright Canada LLP

**Yonni Fushman**, EVP & Chief Legal Officer, Aecon Group Inc.

**Howard Krupat**, DLA Piper (Canada) LLP

**Sharon Vogel**, FCI Arb, Singleton Urquhart Reynolds Vogel LLP

**Jeremy Warning**, Mathews, Dinsdale & Clark LLP

**Register today at:**

[osgoodepd.ca/  
constructionlaw](http://osgoodepd.ca/constructionlaw)

# Registration Details

## Fee per Delegate

**\$3,995 plus HST**

Fees include attendance, program materials, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca/group-discounts](http://www.osgoodepd.ca/group-discounts) for details. Please inquire about financial assistance.

## 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:

Alexandra Karacsony, Program Lawyer at 647.999.8796 or email [AKaracsony@osgoode.yorku.ca](mailto:AKaracsony@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.

# 4 Convenient Ways to Register



Mail



Online



Fax



Call

**Register today at:**

[osgoodepd.ca/constructionlaw](http://osgoodepd.ca/constructionlaw)



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO. Eligible CPD Hours:



**LSO (ON):** 36h CPD (32h 15m Substantive, 3h 45m Professionalism).

**AB:** This program is eligible for CPD credit with the Law Society of Alberta.



**BC:** This program is eligible for 25.5 hours (a minimum of 3 hours will involve aspects of professional responsibility and ethics, client care and relations and/or practice management) CPD credit with the Law Society of British Columbia.



OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca).

**NS:** This program is eligible for CPD hours with the Law Society of Nova Scotia.

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

**LawPRO:** This program is approved for LawPRO Risk Management Credit.

*"The program was outstanding and so useful for my practice as an expert witness. The selected faculty, topics and interactive modules were impressive. I have attended numerous conferences, events and courses related to the Construction industry/litigation this year and this program was by far greater than the others combined."*

**Ben Dae, Ph.D, P.Eng**, Senior Forensic Consultant, Rimkus Consulting Group, Inc.

*"Content is exceptional, thorough and interesting."*

**John Hughes**, Construction Superintendent, Premier Building Services

*"The program provided tremendous value - the speakers were both practice and industry leaders and the material was core to the issues. Solid front to back. Nice to have practical application and discussions to drive home thinking. The mock negotiation scenario was engaging, fun and challenging. It really helped to crystallize the risk allocation issues in contracts."*

**Jesse de Jager**, Conservation Lands Planner, Credit Valley Conservation Authority

*"The program was excellent and it is impossible to walk away without vastly improving your knowledge and understanding of construction law. The instructors were exceptionally knowledgeable and the segment content was informative and useful in my role as in-house counsel."*

**Kendall Wilde**, Legal Counsel, Babcock & Wilcox Power Generation Group Canada Corp.