

# THE OSGOODE CERTIFICATE IN CONSTRUCTION LAW: WESTERN CANADA EDITION

February 27 to March 3, 2019  
5 Consecutive Days • In Person only

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

Join 30+ senior legal and construction specialists to learn the skills and knowledge you need in crucial construction law concepts, with a focus on issues impacting Western Canada, including:

- Project delivery models and the key participants
- Major projects and construction contract issues, includes mining, oil and LNG projects
- Bidding and tendering, delay and impact claims, claims issues and dispute resolution
- Builders' liens, trusts, and construction project perspectives 360°
- Insurance, surety bonding, labour and health and safety

Register today at:

[osgoodepd.ca/construction-west](http://osgoodepd.ca/construction-west)

## Program Directors

**Geza Banfai**  
McMillan LLP

**Tim Mavko**  
Reynolds Mirth Richards &  
Farmer LLP

## Location

**The Sutton Place Hotel**  
**Edmonton**  
10235 101 Street  
Edmonton, AB T5J 3E9

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# The Osgoode Certificate in **CONSTRUCTION LAW:** **WESTERN CANADA EDITION**

## 5 Comprehensive Days of Construction Law Learning

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

**Today's construction projects are highly complex** and present 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 is targeted at both industry and legal professionals and covers what you need to know from contract formation to dispute resolution.

Learn from a truly exceptional faculty of ~30 senior legal and construction specialists, including local and national experts who are fluent in the issues unique to **Western Canada**. You will develop a thorough understanding of the core legal issues impacting construction projects and will emerge better equipped to effectively manage risk.

### **Practical and Experiential Learning**

The 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 in a zero-consequence environment. Your understanding of project delivery models will be reinforced during an interactive "choose your model" workshop and you will also negotiate a construction contract "live" from the perspective of the owner or contractor.



## Get Practical Tips & Strategies in areas including:

- Project delivery models used in Canada and when to use them (includes EPC and EPCM)
- Key terms in construction contracts and how to navigate them, includes assessing limitations, risk management tips and negotiation strategies
- Advanced contract issues in major projects (includes mining, oil and LNG), and the special considerations at play in large scale projects
- Bidding and tendering principles, special issues and emerging trends
- Builders' liens, includes the preservation and perfection of liens and the holdback system
- Construction project challenges from various stakeholder perspectives including: owner/procurement authority, general contractor/project manager, designer, and subcontractor/trade/utility provider
- Recurrent issues in construction claims, includes delay and impact, unanticipated site conditions, changes of scope, extras, productivity and limitations
- Insights to succeed at dispute resolution, includes the role of mediation, arbitration and litigation
- Health & safety, labour, insurance and surety 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 or legal professionals
- In-house counsel
- Anyone engaged with construction projects, whether as a sponsor, manager, risk officer, analyst, auditor or other consultant

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

## Program Directors



**Geza Banfai**  
McMillan LLP



**Tim Mavko**  
Reynolds Mirth Richards  
& Farmer LLP

## Program Faculty

**Tracy Allen, PEng, MBA, MEng, PMP,** Assistant Deputy Minister, Capital Projects Delivery, Alberta Infrastructure, Edmonton

**Markku Allison,** President, Integrated Project Delivery Alliance (IPDA), and VP of Strategy & Innovation, Chandos Construction, Calgary

**Geza Banfai,** McMillan LLP, Toronto

**Dan Bokenfohr,** McLennan Ross LLP, Edmonton

**John DeCesare,** Legal Counsel, Western Canadian Operations, PCL Constructors Inc., Edmonton

**W. Donald Goodfellow, QC, CARb,** The Law Firm of W. Donald Goodfellow, QC, Calgary

**Mark Hildebrand,** Reynolds Mirth Richards & Farmer LLP, Edmonton

**Helmut Johannsen, PEng, CARb, FCIARB,** Singleton Urquhart Reynolds Vogel LLP, Vancouver

**Colleen Legge,** Associate General Counsel & Corporate Secretary, Capital Power Corporation, Edmonton

**Todd Kathol,** Field Law LLP, Calgary

**Karen Kost,** Senior Partner, ONPA Architects Inc., Edmonton

**Ryan Krushelnitzky,** Field Law LLP, Edmonton

**Tim Mavko,** Reynolds Mirth Richards & Farmer LLP, Edmonton

**Jennifer Miller, QC,** Bennett Jones LLP, Edmonton

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

**Patricia (Trish) Morrison,** Borden Ladner Gervais LLP, Calgary

**David Myrol,** McLennan Ross LLP, Edmonton

**Niamh Ni Chroinin, BEng, MSc(Law), CEng MICE, MRICS,** Senior Managing Consultant, Berkeley Research Group LLC, Calgary

**Paula Olexiuk,** Osler, Hoskin & Harcourt LLP, Calgary

**Dennis Picco, QC, FCIARB,** Dentons Canada LLP, Edmonton

**Sabri Shawa, QC, FCIARB,** Jensen Shawa Solomon Duguid Hawkes LLP, Calgary

**Jane Sidnell,** Rose LLP, Calgary

**Brian Soutar,** Consultant, Brian M. Soutar Consulting Ltd & past Executive Director, Alberta Infrastructure, Edmonton

**Paul Verhesen, PEng,** Chief Executive Officer, Clark Builders, Edmonton

**Peter Vetsch,** Rose LLP, Calgary

**Bryan West,** McCarthy Tétrault LLP, Calgary

**Bill Woodhead,** Borden Ladner Gervais LLP, Calgary

*“Presenters were experts in their area(s) of construction law, many were counsel on leading cases [and] their knowledge was invaluable. I had confidence in the materials, as they were presented by knowledgeable faculty – real leaders in the areas.”*

**Brittane Laverdure, RVP,** Aboriginal Trusts, Royal Trusts & Wealth Management



# Agenda

## MODULE 1

February 27, 2019  
9:00 a.m. – 5:00 p.m. MST  
**Project Delivery Models**

### Conventional Project Delivery Models

A detailed and practical analysis of conventional project delivery and contracting models used across Canada, with particular emphasis on Western Canada. Discussion will include risk profile considerations and determinants favouring each method in particular circumstances. *Includes: Design-Bid-Build, Design-Build, Construction Management and EPC/EPCM models.*

### Alternative Project Delivery Models

Essential guidance on alternative project delivery arrangements used, including an analysis of various transaction structures and the different risks and opportunities that distinguish these from traditional delivery models as well as determinants favouring each method in particular circumstances. *Includes: Public-Private-Partnerships (P3s) and Integrated Project Delivery (IPD) models.*

### Special Luncheon Address:

*The Canadian Construction Industry & Key Drivers for Western Canada*

## Faculty

Geza Banfai

Tim Mavko

Mark Hildebrand

Jane Sidnell

Register today at:

[osgoodepd.ca/  
construction-west](http://osgoodepd.ca/construction-west)

## MODULE 2

February 28, 2019  
9:00 a.m. – 4:00 p.m. MST  
+ Post-Program Networking Event

### Major Projects & the Construction Contract

#### SAVE THE DATE!

*Post-Program Networking Event  
sponsored by Berkeley Research Group LLC.  
Time & location to be announced.*



### Key Terms & How to Navigate the Construction Contract

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 learn about navigating your construction contract as a “rule book”, including key directional points and pivots with expert insights, practical advice and risk management tools to avoid unexpected risk transfer, disputes and claims.

### Major Projects: Mining, Oil, & LNG – Overcoming the Challenges

Major projects in mining, oil and liquefied natural gas (LNG) present unique challenges and considerations. Leading legal counsel, with extensive experience in multi-billion dollar energy projects and deals of national importance, will lead you through the maze, highlighting the major challenges and the best strategies and tactics to overcome them.

### Interactive Workshop: Project Delivery Models

This day will conclude with an interactive “choose your model”, small group workshop where you will apply the lessons learned from Days 1 and 2 to typical scenarios. You will have the opportunity to demonstrate the considerations that must be evaluated and balanced in choosing the right project delivery model for your contract and gain custom feedback from acknowledged leaders in a zero-consequence environment.

### Special Luncheon Address:

**Markku Allison**, President, Integrated Project Delivery Alliance (IPDA), and VP of Strategy & Innovation, Chandos Construction, Calgary

## Faculty

John DeCesare

Paula Olexiuk

Tim Mavko

Bill Woodhead

Trish Morrison

## MODULE 3

March 1, 2019  
9:00 a.m. – 5:00 p.m. MST  
**Bidding, Tendering & Claims Issues**

### Bidding & Tendering: Fundamental Principles and Advanced Issues

Learn the principles governing bidding and tendering law in Canada, including the evolution of the Contract A/Contract B paradigm, the formative legal authorities, and the principle of compliance in this ever-evolving area of law. You'll also get an in-depth review of advanced problems and new developments impacting bidding and tendering, including the treatment of privilege and discretion clauses after *Tercon*, judicial review as a remedy, the issues surrounding the correction of tender errors and numerous practical tips and strategies.

### Construction Claims – Legal & Technical: Extras, Change of Scope, Productivity, Delay & Impact Claims, Quantifying Loss

Experts provide in-depth analyses of common construction claims from a legal and then a technical perspective. Learn about the legal issues underlying construction claims, including recent developments in the law of notice and how to manage them. Learn about the technical issues underlying productivity, delay and impact claims (includes causes of lost productivity, quantifying the loss, critical path analysis and limitations), and gain practical and risk management tools to manage them.

## How to Succeed in Dispute Resolution

Project disputes are increasingly complex. This session will cover dispute resolution principles and the mediation, arbitration and litigation systems, as well as the mechanics of settling a case. Discussion will include limitations and evidentiary issues and valuable “lessons learned” with tips to avoid common pitfalls.

### Special Luncheon Address:

**Sabri Shawa QC, FCI Arb**, Jensen Shawa Solomon Duguid Hawkes LLP, Calgary

## Faculty

<b>Geza Banfai</b>	<b>Ryan Krushelnitzky</b>
<b>W. Donald Goodfellow</b>	<b>Rick Moffat</b>
<b>Helmut Johannsen</b>	<b>Niamh Ni Chroinin</b>

### MODULE 4

**March 2, 2019**  
**9:00 a.m. – 5:00 p.m. MST**  
**Builders’ Liens, Trusts, Contract Negotiations & Project Perspectives 360°**

### Builders Liens: Fundamental Principles & Advanced Issues

Learn the fundamental concepts and terminology underlying lien legislation, with an examination of Alberta’s *Builders’ Lien Act* and how issues such as the nature of the lien, preservation and perfection of the liens and the holdback system are addressed. You’ll also learn practical legal information and tips for dealing with key advanced issues involving liens, including liens on public works, the Crown, sheltering, priority issues (mortgage and CRA), set-offs, correcting errors and trust claim issues.

### Interactive Workshop: Negotiating a Construction Contract

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. 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. Plus! Expert facilitators will provide real-time guidance and custom feedback in a zero-consequence environment.

### Construction Project Perspectives 360°

This engaging round table discussion – moderated by the past Executive Director of Alberta Infrastructure – will dissect key construction project challenges from a cross-section of perspectives, with expert insights, tips and strategies on real world issues from procurement to dispute resolution and emerging issues. Perspectives include: owner/procurement authority, general contractor/project manager, designer and subcontractor/trade/utility provider.

### Special Luncheon Address:

**Brian Soutar**, Consultant, Brian M. Soutar Consulting Ltd & past Executive Director, Alberta Infrastructure, Edmonton

## Faculty

<b>Tracy Allen</b>	<b>Brian Soutar</b>
<b>Karen Kost</b>	<b>Paul Verhesen</b>
<b>Colleen Legge</b>	<b>Peter Vetsch</b>
<b>Tim Mavko</b>	

### MODULE 5

**March 3, 2019**  
**8:30 a.m. – 1:00 p.m. MST**  
**Top 5 Issues in Critical Areas of Law that Affect Construction**

### Construction Insurance

Learn about insurance issues particularly relevant to the construction process, including key cross-country principles and a comparison of the differing types of insurance available. Discussion includes considerations of risk assessment and the proper choice of insurance in differing project delivery scenarios.

## 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 principle and the obligee; the types of bonds typically used in construction; and the legal and practical aspects of asserting claims and defences under bonds.

### Occupational Health & Safety Issues in Construction

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

### Construction Labour Law

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

### Top 5 Construction Cases Everyone Should Know About

Rounding out your experience, our legal expert will provide you with a practical summary of 5 crucial and fascinating cases impacting construction projects today, including the highs, the lows, expert insights and valuable “lessons learned”.

## Faculty

<b>Dan Bokenfohr</b>	<b>David Myrol</b>
<b>Todd Kathol</b>	<b>Dennis Picco</b>
<b>Tim Mavko</b>	<b>Bryan West</b>
<b>Jennifer Miller</b>	

### FINAL TAKE-HOME EXAM:

*Will be distributed during Module 5 and exam requires online completion and a passing grade of 80% due by April 1, 2019.*

# Registration Details

## Fee per Delegate

**\$3,995 plus GST**

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.

**REMINDER:** this program is eligible for funding under many federal-provincial Job Grant programs. Visit [www.canada.ca](http://www.canada.ca) or this program's webpage for details.

## 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 successful completion of the **Osgoode Certificate in Construction Law: Western Canada Edition**. You must attend all program modules and **pass the post-program multiple choice assessment** to receive a certificate.

## 4 Convenient Ways to Register



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Online



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Call

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[osgoodepd.ca/construction-west](http://osgoodepd.ca/construction-west)



Eligible CPD/MCLE hours:

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 3.0 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.

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

LSO (ON): 33h 15m CPD (28h 45m Substantive, 4h 30m Professionalism).

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

This program is approved for LAWPRO Risk Management Credit.

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).



accredited



*"This program should be a prerequisite for all Project Managers."*

Lloyd Tozer, PEng, Project Manager

*"I liked the diversity of the [faculty and] attendees. Getting different perspectives from government, to owners, to contractors and legal was great."*

Gary Raposo, CPA, CMA, CFO,  
International Cooling Tower

*"Very good program; strong speakers with significant experience and knowledge."*

Tracy Allen, PEng, MBA, MEng, PMP,  
Assistant Deputy Minister,  
Capital Projects Delivery,  
Alberta Infrastructure

*"Overall, this is an excellent course for a consulting engineer."*

Desmond Lau, Principal, MCW  
Consultants Ltd

*"All speakers were excellent. The pace was very engaging. Deeply enjoyed the classroom environment."*

Robert Warren, Operations Manager,  
SRS Industrial