

# THE OSGOODE CERTIFICATE IN CONSTRUCTION LAW: *WESTERN CANADA EDITION*

February 26 to March 1, 2020 • 5 Consecutive Days  
In Person only • Edmonton, AB

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

Join 20+ construction specialists to learn the practical 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
- Navigating bidding and tendering, delay and impact claims, and dispute resolution
- Environmental, insolvency, insurance, bonding/surety, labour, and health and safety
- What to do about builders' liens, trusts and key reforms and trends impacting construction

Register today at:

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

## Program Directors

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

**Geza Banfai**  
McMillan LLP

## Location

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





## Get Practical Tips & Strategies in areas including:

- Project delivery models used in Canada and when to use them, including EPC and EPCM
- How to navigate key terms in construction contracts, including assessing limitations, risks and negotiation strategies
- Advanced contract issues in major projects and special considerations at play in large scale projects (includes mining, oil and LNG)
- Bidding and tendering principles, special issues and emerging trends
- Builders' liens and trusts, including the preservation and perfection of liens and the holdback system
- Recurrent issues in construction claims, including delay and impact, unanticipated site conditions, change of scope, extras and productivity
- How to navigate key issues in health & safety, labour, insurance, and surety bonding
- Insights to succeed when resolving disputes, including the role of mediation, arbitration and litigation

**PLUS!** You'll receive beneficial materials and practical tools that will act as valuable resources long after the program concludes.

## Who Should Attend

- Owners and developers
- Builders and construction professionals
- Business, operations or capital projects leaders and executives
- Engineers, consulting engineers and technical specialists
- Architects
- Project managers
- Contract managers and specialists
- Procurement professionals
- Supply chain professionals, buyers and vendors
- Construction industry or infrastructure consultants
- Property or commercial services providers
- Construction, municipal, real estate or procurement lawyers or legal professionals
- In-house counsel
- Anyone involved with construction projects - sponsor, lender/investor, manager, risk officer, analyst, auditor or other consultant

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# THE OSGOODE CERTIFICATE IN Construction Law: *Western Canada* Edition

Register today at:

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

## 5 Comprehensive Days of Targeted Learning

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

Today's construction projects are highly complex and all stakeholders face numerous challenging risks and obligations. A comprehensive understanding of key issues and potential liability exposures in this high-stakes area is essential. Developed for industry, this **practical, intensive** 5-day Certificate covers what you need to know from contract formation to dispute resolution.

Learn from a truly exceptional faculty of 20+ construction specialists who are fluent in the issues unique to **Western 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 learning in a supportive environment

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

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

Robert Warren, Operations Manager, SRS Industrial

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

## Program Directors



**Tim Mavko**

Reynolds Mirth Richards  
& Farmer LLP



**Geza Banfai**

McMillan LLP

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

## Program Faculty

**Geza Banfai**

McMillan LLP

**Dan Bokenfohr**

McLennan Ross LLP

**John DeCesare**

Legal Counsel, Western Canadian  
Operations, PCL Constructors Inc.

**Melanie Gaston**

Osler, Hoskin & Harcourt LLP

**The Honourable Justice**

**Robert Graesser**

Court of Queen's Bench of Alberta

**Mark Hildebrand**

Reynolds Mirth Richards & Farmer LLP

**Helmut Johannsen, PEng, CARb, FCI Arb**

Singleton Urquhart Reynolds Vogel LLP

**Todd Kathol**

Field Law LLP

**William (Bill) Kenny, QC, FCI Arb**

Miller Thomson LLP

**Karen Kost,**

Senior Partner, ONPA Architects Inc.

**Ron Kruhlak, QC**

McLennan Ross LLP

**Ryan Krushelnitzky**

Field Law LLP

Senior Partner, ONPA Architects Inc.

**Tim Mavko**

Reynolds Mirth Richards & Farmer LLP

**Rick Moffat**

Managing Director, Berkeley Research  
Group LLC

**Patricia (Trish) Morrison**

Borden Ladner Gervais LLP

**David (Dave) Myrol**

McLennan Ross LLP

**Niamh Ni Chroinin, BEng, MSc(Law),  
CEng MICE, MRICS**

Senior Managing Consultant,  
Berkeley Research Group LLC

**Paula Olexiuk**

Osler, Hoskin & Harcourt LLP

**Paul Sharek, QC**

Emery Jamieson LLP

**E. Jane Sidnell**

Rose LLP

**Brian Soutar**

Consultant, Brian M. Soutar  
Consulting Ltd.

**Paul Verhesen, PEng**

Chief Executive Officer,  
Clark Builders

**Stephanie Wanke**

Miller Thomson LLP

**Bryan West**

McCarthy Tétrault LLP

**Bill Woodhead**

Borden Ladner Gervais LLP

“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 26, 2020  
8:30 a.m. – 5:00 p.m. MT  
**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: 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.

### Alternative Project 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.

## MODULE 2

February 27, 2020  
8:30 a.m. – 4:30 p.m. MT  
*+ Post-Program Networking Event\**  
**The Construction Contract & Major Projects**

### 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, including recent landmark legal decisions. 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 Mini-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.

### SAVE THE DATE!

**Post-Program Networking Event  
right after class during Module 2.**

**Generously sponsored by  
Berkeley Research Group LLC.**

*Details to be announced.*



## MODULE 3

February 28, 2020  
8:30 a.m. – 4:45 p.m. MT  
**Bidding, Tendering, Liens & Claims Issues**

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

Learn the basic principles governing bidding and tendering law in Canada, including the evolution of the Contract A/Contract B paradigm and the principle of compliance in this ever-evolving area of law. Discussion includes a review of the formative legal authorities such as *Ron Engineering*, *Martel* and *MJB*. 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.

### 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-off, correcting errors and trust claim issues.

### Construction Claims: Extras, Entitlement, Changes of Scope – Legal Issues, Notice and Risks

Gain an in-depth understanding of common construction claims and issues across two sessions.

The first session will focus on the legal issues underlying construction claims, including recent developments in the law of notice.

“Excellent. The course was very well thought out and the progression of topics easy to follow. The course material and the delivery method was exceptional.”

Colin Reeve, Project Manager, Supreme Group LP

Faculty will also offer best practices, tips and legal risk management and mitigation strategies when claims are unavoidable, including the roles, duties and concerns for key participants.

#### **Construction Claims: Productivity, Delay and Impact Claims – Technical Issues, Risks and Quantifying the Loss**

This second session will focus on the technical issues behind productivity, delay and impact claims, quantifying the loss, critical path analysis, disruption, causes of lost productivity and limitations issues. Faculty will provide expert insights, tips and strategies to deal with disruption, methods of delay analysis, claims mitigation, along with how to calculate actual and potential damages.

### **MODULE 4**

**February 29, 2020**  
**8:30 a.m. – 5:00 p.m. MT**  
**Top 5 Issues in Key Areas of Law Impacting Construction**

#### **Environmental Law**

Whether a construction project is in an urban centre, next to a body of water, or hours from a city, environmental issues impact project planning and execution. Learn about key environmental law topics that impact construction, includes planning and timing for Records of Site Condition, finding contamination, vapour intrusion, excess soil management, updates in law, emerging trends and avoiding or managing regulatory involvement.

#### **Insolvency and Restructuring**

Gain practical sightlines into insolvency, bankruptcy and restructuring issues involving construction projects, with an overview of governing laws and principles, including: the collision between bankruptcy and construction trusts, managing a contract in the face of an insolvent party, getting the project built while containing risks, and practical implications when dealing with an insolvent party to a contract.

#### **Construction Insurance**

Learn about specialized insurance issues relevant to the construction process, including key cross-country principles, a comparison of the differing types of insurance available, risk assessment considerations, gaps and excess policy issues, common pitfalls, litigated exclusions and the proper choice of insurance in differing project delivery scenarios.

#### **Surety Bonding**

Faculty will cover the essential role of the surety in the construction process, including: the underlying principles and cross-country element, the key parties, the types of bonds typically used, the legal and practical aspects of asserting claims and defences under bonds, and crucial risk management tips in problematic situations.

#### **Construction Labour Law**

Nothing affects daily execution of construction projects more than labour law. Gain an overview of key topics in construction labour law across Canada and in the West, and practical tips and strategies for owners, generals and subcontractors to deal with common workplace issues on the jobsite, including: getting bound, strikes, lockouts and picketing, various employer associations, grievances and arbitration, and jurisdictional disputes.

#### **Occupational Health & Safety**

Gain a practical overview of key cross-country principles and party liabilities in the construction process under occupational health and safety legislation and risk management strategies, including constructor liability and the appropriate responses to accidents and investigations.

#### **Top 5 Construction Cases Everyone Should Know About**

Rounding out the day, faculty 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”.

### **MODULE 5**

**March 1, 2020**  
**8:30 a.m. – 2:00 p.m. MT**  
**Dispute Resolution, Decision-Makers & Negotiation Workshop**

#### **How to Succeed in Dispute Resolution**

Projects and the disputes related to them are increasingly complex. What does “failure” or “success” look like in dispute resolution? 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.

#### **The Decision-Makers Speak! View from the Bench**

This not-to-be-missed session features truly unique and valuable perspectives of decision-makers who preside over various construction disputes and claims. This exceptional panel will discuss practical elements to enhance dispute resolution with distinctions based on the type of proceeding, including things they wish they knew while they were on the “other side” and their top tips and “pet peeves” to help you remain on the “good side” of the decision-maker. The panel will discuss professionalism and ethics and invite open discussion on the principled topics of equality, diversity and inclusion.

#### **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.

#### **PROGRAM CONCLUDES**

#### **FINAL TAKE-HOME EXAM:**

*Will be distributed after Module 5 and exam requires online completion and a passing grade of 80% due by March 30, 2020.*

# Registration Details

## Fee per Delegate

**\$3,995 plus GST**

**New Licensee (2016 – 2019): 50% off regular rate**

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

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 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



Mail



Online



Fax



Call

**Register today at:**

**[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.

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

LSO (ON): 34h CPD (29h 45m Substantive; 4h Professionalism; 15m EDI).

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).



What some of our past participants have said:

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

Lloyd Tozer, PEng, Project Manager

*"The instructors' passion for the law, for contracting, and for the industry is clear. I'd certainly recommend this course to [my] staff."*

Cory Knutson, General Manager,  
Trotter & Morton

*"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

*"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

*"Outstanding content and discussion [and] opportunity to hear the perspectives of others. [The Networking Event] was a great way to interact with people on a different level."*

Sandra McLaughlin, Assistant Director,  
British Columbia Institute of Technology (BCIT)