

Be Prepared: Green Buildings Are Soon Going To Be Called Buildings – Are You Ready?

Full disclosure – I am an attorney serving design and construction professionals. Like other professions and trades, construction lawyers go to meetings to learn the latest trends affecting their practices.

Last week, I attended a conference on sustainable construction in a changing environment. I spoke on building and energy code changes, how to advise clients on managing risk in the face of rapid technological advances and the trend towards zero net energy buildings. Although there was debate on whether climate change is occurring naturally or as a result of human activity, one common theme was our country's drive to reduce the amount of energy and water U.S. buildings consume.

How is that achieved? By laws (including regulations, statutes and local ordinances), by model building and energy code adoptions, and by voluntary actions (spurred by green rating systems). Laws can offer incentives to build greener, or can mandate sustainable design and construction practices (like they do in Maryland). Building and energy codes mandate minimum baselines. Voluntary rating systems provide tools to measure green building practices. Standards (e.g., ASHRAE, ANSI, ASTM, NFPA) are the foundation for all of the above and have proven to reduce building energy and water consumption. For example, since ASHRAE 90.1 (energy use benchmark for buildings) was published in 1975, buildings use 58% less energy, with approximately 25% of that savings achieved in the last 10 years.

Maryland is one of the greenest states in the U.S. with progressive laws and policies on green building in the public and private spheres. State and local laws often overlap and may conflict, and codes and standards are often changing to keep pace with technological advances. Multi-jurisdictional practice poses additional risk management challenges.

Why is this important? Design professionals, contractors

and subcontractors take on additional risks on green projects, and in a majority of cases, fail to adequately prepare for the risk. Case in point- I rarely receive a contract for review that includes language that properly allocates risk on green projects.

Where to find guidance on contract considerations? The AIA's Guide for Sustainable Projects (d503 2013) and ConsensusDocs 310 - Green Building Addendum are helpful.

Remember when green building was considered (by some) a trend that would lose speed? Now, sustainable building is outpacing overall construction growth in the U.S. and soon, green buildings will be just "buildings". Are you ready?

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