

# How Green Building Practices Can Lead To Unique Construction Disputes & Litigation

*“Green” construction has the potential to open the door to disputes and litigation that are unique to conventional construction practice.*

MARLTON, NJ, UNITED STATES, September 24, 2024 /EINPresswire.com/ -- The demand for

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“Green” building is significantly more dependent on an orderly process. Therefore, the collaboration of all participants-design, management, trade, insurance and others-is key to a successful outcome.”

*James Gallagher, P.E., F.ASCE,  
Principal, Resolution  
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“green” commercial construction continues to grow dramatically. According to a recent construction market study by Fortune Business Insights, “The global green building materials market is projected to grow from \$474.21 billion in 2024 to \$1,199.52 billion by 2032 at a CAGR of 12.3%.” Whether influenced by legislation, public relations, goodwill towards Man, or all three, “green” construction is a growing trend and one that will continue to grow and be with us for a long time to come.

According to James Gallagher, P.E., F.ASCE and Principal at Resolution Management Consultants, Inc., “With all the environmental benefits it offers, “green” construction also has the potential to open the door to disputes and litigation that are unique to conventional construction

practice.” Gallagher said, “In addition to typical construction issues that can trigger disputes, such as lateness, cost overruns, quality disagreements and others, there are additional potential risks that are unique to “green” construction practice. These can include lapses in collaboration among the design & construction parties, failure to achieve certification goals, insurance coverage issues, reliability of green materials and other factors.”

Gallagher has identified several factors related to “green” construction of which companies should be mindful:

- The potential effect of differing and sometimes overlapping laws, rules and codes on a project.

Most state and local governments have passed dedicated “green” construction rules and laws however, definitions can be incomplete and vary widely. Disputes can arise from complexities and ambiguities, as well as from overlapping rule preemptions potentially affecting the

outcome.

- In contracts, properly defining the “green” goals that one expects to achieve, including processes, results and certification expectations.

Failure to write contracts that are comprehensive enough to specify final standard and certification goals is a leading cause of disputes.

- Using “standard” construction contract language as a basis for “green” building contracts.

The use of conventional construction contract language may not be descriptive enough to define and accommodate “green” practices, leading to disputes.

- Understanding the complete process and the part in which each participant plays.

Design professionals, contractors, managers, owners and others often don’t completely appreciate or understand the process and how they are linked to its successful completion. Because “green” building is often more highly orchestrated to accomplish sustainability goals, seemingly small changes or delays can significantly affect the “green” outcome of a project.

- Insurance may not adequately cover potential “green” issues or may not even be available. Many managers assume that construction insurance covers “green” issues, but there are some additional risks that need to be included in coverage. Such risks as force majeure, consequential damages, delays in certification approval and other issues can open the project to unnecessary added risk.

- The added effects that changes have on a “green” project.

The order that work is completed on a “green” building project can dramatically effect it’s outcome. Slow downs, delays in materials, inspection delays, owner changes, and even routine change orders can alter the so-called balance of the process and negatively influence it’s ability to achieve sustainability goals.

Said Gallagher, ““Green” building is significantly more dependent on an orderly process than conventional construction is, therefore the collaboration of all participants from the start - design, management, trade, insurance and others - is key to a successful outcome. By having all parties involved and communicating throughout the project, one can significantly reduce the



James F. Gallagher, P.E. F.ASCE, Principal  
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potential for disputes and litigation.”

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About Resolution Management Consultants, Inc.

Resolution Management Consultants, Inc. (RMC) is a nationally recognized consulting firm headquartered in Marlton, NJ. There are two sides to the business: the construction planning and management aspect – helping clients build more successful projects – and the litigation aspect – should matters go to court, providing analysis and testimony as expert witnesses. Founded in 1993 by veterans in the construction, contracting and engineering professions, RMC has assisted numerous private owners, public agencies and contractors in either achieving project goals or resolving cost and time disputes between the contracting parties.

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