



# Construction Law Zone

Current developments and recent trends in all areas of Construction Law

Robinson+Cole's Construction Group is pleased to bring you a recap of posts from our [Construction Law Zone](#) blog. As we continue to follow developments and trends in all areas of construction law and share our insights on issues important to the industry, including those related to Coronavirus, we encourage you to check out the blog and [subscribe](#) to receive e-mails when new content is posted. We welcome your feedback and input on topics you'd like us to cover.

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## DRONES

### [Balancing New Technology and Privacy When Using Drones in Land Use and Construction](#)

The mixture of sheltering-in-place, warm weather, and increasing drone usage creates a combustible situation – literally. Drone shootings are on the rise as property owners seek to combat perceived trespass, nuisance and invasions of privacy. These were some of the legal issues discussed during a webinar presented by the American Bar Association's Section on Real Property Trusts and Estates (ABA RPTE) at its 32nd Annual Conference (held virtually for the first time) on May 15, 2020. The webinar focused on the legal landscape and issues to consider in counseling real estate and construction businesses on the commercial use of small unmanned aerial systems (sUAS). The panel included attorneys as well as an engineer, who presented drone video footage and computer graphics used to collect data more efficiently during land use evaluation, mid-construction and post-construction. [Read more](#)

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### [Time to Reconsider Permitting Use of Drones for Development and Construction in Dense Urban Areas?](#)

COVID-19's severe impact on some major metropolitan areas has been attributed to their density, infrastructure and inherent difficulty with "social distancing." This same challenge with social distancing has led to either mandatory or pressured shutdowns of construction projects throughout many states and metropolitan areas. Meanwhile, and particularly during the shutdowns, building-safety mandates require that some people still physically be at the projects to ensure ongoing compliance – especially important where a half-complete project can result in its own safety problems. Simultaneously, to complete new real estate transactions, investigations of sites must still be performed for due diligence data. [Read more](#)

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## NEW YORK

JUNE 2020

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### FEATURED TOPICS:

[Coronavirus](#)  
[Construction Contracts + Claims](#)  
[Development](#)  
[Drones](#)  
[Massachusetts](#)  
[New York](#)

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## **[New York's Multi-Faceted Approach to Reopening "Non-Essential" Construction](#)**

COVID-19's impact in New York has been particularly region-specific. To address the disparity, Governor Cuomo created a four-phase reopening plan to be implemented where geographic regions meet their required "health metrics." Each phase correlates with a group of industries in which their non-essential businesses may permit the return of their in-person workforce – under certain conditions – in qualifying regions. (As of the date of this publication, the regions that have qualified based on their health metrics are the Capital Region, Central New York, Finger Lakes, Mohawk Valley, North Country, Southern Tier and Western New York.) Construction is one of the industries comprising "Phase One." [Read more](#)

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## **CLAIMS**

### **[Connecticut Appellate Court Recognizes Cardinal Change Doctrine for the First Time](#)**

Changes are made to the scope of work on construction projects every day. In some cases, the contract party being asked to accept these changes is reluctant to do so, viewing the changes to be so substantial as to result in a scope of work radically and materially different than what it originally agreed to perform. Faced with these circumstances, the decision to refuse to perform the extra work and walk away from the project can be a tempting one.

The "cardinal change doctrine" is a tool available to address these situations. The doctrine provides that, when changes are made to a contract which are so disproportionate to the original scope of a contractor's work that they constitute an abandonment of the original agreement by the other party, the contractor is relieved of further performance obligations. [Read more](#)

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## **MASSACHUSETTS**

### **[Massachusetts Construction Litigation Scheduled to Get Back on Track](#)**

With the issuance of a revised order by the Massachusetts Supreme Judicial Court (SJC) dated May 26, 2020, construction litigation in Massachusetts is poised to re-start in earnest after July 1, 2020. As the SJC stated in its Order, "unless there is a new surge in COVID-19 cases in the Commonwealth," the de facto pause in litigation that went into effect in mid-March 2020 with the tolling of all civil statutes of limitations and all deadlines set forth in statutes or court rules, standing orders, tracking orders, or guidelines, "shall end and not be further extended." [Read more](#)

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### **[Massachusetts Construction Projects May Reopen Immediately, Governor Announces; Boston to Follow May 25th](#)**

Governor Charlie Baker announced on May 18 that all construction projects in Massachusetts may reopen immediately, provided contractors and owners comply with new safety guidelines and compliance documentation requirements. [Read more](#)

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## [Boston Issues New COVID-19 Guidelines Applicable to All City-Permitted Projects](#)

In an effort to prepare to re-start construction on suspended projects after imposing pandemic-related restrictions on construction deemed nonessential, the City of Boston recently issued its revised "Temporary Guidance for Construction in the City of Boston," which took effect on April 27, 2020. A week after being issued, the City indicated that this new policy is effective for active permitted projects, and for all future permit applications moving forward, including Alterations, Amendments, Erect Building, Use of Premises, Short Form, Electrical (Temp Service, Low Voltage, Fire Alarm, and general), Plumbing, Gas, Sprinkler, Sheet Metal and Trench permits. [Read more](#)

## DEVELOPMENT

### [Landmarks Preservation and the Economy During COVID-19](#)

In April the NYC Landmarks Preservation Commission celebrated its 55th anniversary. Also in the same month, since the issuance of the emergency orders stemming from the COVID-19 public health crisis, the agency is scheduling its first public hearing using the Zoom teleconferencing platform. The hearing was held on Tuesday, April 21, at 9:30 a.m., and can be viewed on the LPC's YouTube channel. [Read more](#)

If you have any questions, please contact a member of Robinson+Cole's [Construction Law Group](#)

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