

Local attorney helps create first standardized green building contract

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Nationwide, green building recently saw a large update with the formation of the first-ever formal green building contract in the construction industry - established in part by Don Gregory, an attorney with the local office of Kegler Brown Hill & Ritter.

The contract, ConsensusDOCS 310, was released in November and is expected to have a large impact on green building in the near future, "once the industry gets properly educated on the availability and usefulness of the document," said Gregory.

ConsensusDOCS 310 was endorsed by more than 20 leading nationwide construction associates, from owners to contractors, to subcontractors, he added.

Gregory served on the national Working Group of construction professionals - composed of about a dozen professionals - to negotiate and draft ConsensusDOCS 310. The standardized document, which took nearly two years to draft, identifies the roles and responsibilities of green building project participants, Gregory said.

"It, for the first time, attempts to set forth the roles of project participants with respect to green building, and most particularly, it sets forth the role of a GBF, a green building facilitator, and that's the person who will have primary responsibility for ensuring green building status, like Leadership in Energy and Environmental Design status," Gregory said.

"Before (ConsensusDOCS 310), there has never been uniformity on this, and there has not been a standard form agreement," he said.

The contract is drafted so that it is adaptable for different states' regulations, and protective of those who pursue projects, he added.

"It's crafted in a way that doesn't have open-ended or uncertain liability for the participants, so I think that it's going to encourage people to work on green projects," Gregory said, explaining that it should help alleviate some concerns among developers and contractors about lawsuits for not obtaining LEED certification or meeting other such requirements.

"Construction is all about evaluating risk, and if you know what your risk is, you are better able to decide if you want to participate. ...So this takes away some of the uncertainty. I think there will be more eagerness to assume green building now."

He added green building has become increasingly popular in the last few years.

"Green buildings are continuing to be built despite the (economic) downturn, including some funded by the federal stimulus package. Sustainability is becoming increasingly important ... (green building) is probably up to 10 percent of the market now, and yet we didn't really have a well-established way of dealing with this through the building process," Gregory said.

Green buildings in Columbus include the new county courthouse, the Lazarus building, and several new schools, he added.

"(Green building) has really become the preferential way to do public work," said Gregory. "Whether green building is being encouraged for altruistic reasons or simply to be a 'politically correct' marketing technique, one thing is for certain: Green building is here to stay."

Jeff Dennis, marketing and business development manager at Kegler Brown Hill & Ritter, said the firm is elated that one of its attorneys was part of ConsensusDOCS 310's development.

"Don and the other construction attorneys at Kegler Brown regularly become involved in industry trade associations, both as counsel and as active members. It allows them to stay on the cutting edge of new developments and, accordingly, equips them with the tools necessary to provide the type of legal counsel our clients have come to expect from us."

ConsensusDOCS 310 can be found online at <http://consensusdocs.org/>.