

# It's not easy being green

How to navigate the unfamiliar territory of sustainable building projects

Interviewed by Clare DeCapua

**B**usiness owners interested in building “green” should be ready for some extra challenges. The coordination of a green building project requires the right strategies in order to reap the benefits of LEED (Leadership in Energy and Environmental Design) construction.

“Even in down economic times, green building is here to stay,” says Don Gregory, chair of the Construction and Litigation practice areas at Kegler, Brown, Hill & Ritter. “There are some tools you can use to give yourself a competitive advantage and deal with what is an increasing segment of the market.”

*Smart Business* learned more from Gregory about the complications involved in sustainable building projects and how to avoid common pitfalls.

## Why build green?

Both public and private owners are increasingly interested in sustainability and green building as we are getting more focused on effectively using our resources. And there's a lot of pressure to build green these days with public owners that answer to taxpayers and also with private owners who are interested in doing the right thing and showing that to customers.

There's also the practical side of it. A lot of studies have shown that, while there can be some upfront investment in green building, it pays substantial dividends down the road in energy savings. There's a lot of grant money that's been tied in to this now, in the stimulus package and other legislation. It is projected that by 2015 half of all non-residential projects in this country will be green.

## How does LEED fit in?

There are other rating services in addition to LEED, but LEED is the dominant player and it typically is the benchmark that's used. For example, when the Ohio School Facilities Commission went to green building, it tied its standards to LEED standards. The Franklin County Courthouse is seeking ‘gold’ status from LEED. It's increasingly the currency in which we measure whether a project is truly sustainable or not.

## How is building to LEED standards different?

We've had decades to perfect contract documents for ‘normal’ construction, but



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LEED is so new and different. There are additional roles and requirements, and we're still struggling with what the right contract documents ought to be and what risk ought to be assumed by both sides to those contracts.

One of the things that owners typically don't provide for adequately in their contract documents is the risk of delays, which can occur from a lack of product availability. A lot of times, a green project will require, for example, wood from a local source within 200 miles or drywall from a sustainable source within 300 miles. Well, what happens if everyone else is looking for the same type of materials and they are unavailable, delivery is delayed or the only supplier goes out of business? Who is responsible for a) any delays while you try to secure the desired material or b) materials that become impractical to obtain? In that circumstance you're obviously losing time or points toward LEED certification. Many times, the contract documents don't really deal with who is responsible for that.

Owners also tend to think that because they've designed a project that they think is going to get gold certification from LEED that they can tell the public and the taxpayers about it. What they oftentimes don't realize is it takes a long time and a

lot of paperwork submitted to LEED before you know whether, in fact, you have achieved that status or not. And what happens if you don't achieve the status or aren't able to get the expected energy savings or you lose the benefit of the tax credit?

## What can be done to make this process a little easier?

The more the parties think about the unique nature of a green project and provide for that in the contract documents, the less surprises they'll have later. There are a couple of tools available now that weren't available in the not-so-distant past. The first is that we now have people that are certified as LEED professionals. They've taken all the testing, they know what the LEED requirements are and have been formally approved as knowledgeable and experienced in the area of green building. The more owners can be involved with LEED professionals, whether they're architects or lawyers or contractors, the better.

If you're building a LEED project, you want to work with people that have done it before. We have a client here in town who built their own green office and obviously went through the experience firsthand as an owner and a contractor. That kind of experience would be helpful.

The most cutting-edge tool that's available now — and wasn't available even a few months ago — is a uniform nationwide contract document on green building. ConsensusDOCS brought together more than two-dozen construction trade associations, nationwide groups that represent owners, architects and engineers, bonding companies, and contractors and subcontractors to collaborate on and endorse the documents. The ‘ConsensusDOCS 310: Green Building Addendum’ can be found at [www.consensusdocs.org](http://www.consensusdocs.org). It's the first national or uniform document that's been created anywhere to deal with the issues of green building. It's going to be very helpful because, for the first time, we have a document that says what expectations there will be with all project participants and their various roles. <<

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