

CONTENT OUTLINE

LAW AND CONTRACTS FOR THE CONSTRUCTION INDUSTRY

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OVERVIEW

This course provides a general overview of Canadian contract law. It also examines specific concepts as they relate to the construction industry. Particular attention is directed to contract and construction law cases.

PREREQUISITE

Although there is no formal educational prerequisite for this course, the participants' chances of success will be enhanced if their reading and comprehension skills are at a high school or equivalent level. Participants must be familiar with basic computer operating and word processing programs.

LEARNING OBJECTIVES

Upon successful completion of this course, participants will be able to:

- define concepts related to the legal system
- define principles of construction contract law
- list characteristics of various forms of contracts
- interpret construction contract documents
- identify concepts related to insurance
- identify concepts related to construction bonding
- identify methods of dispute resolution
- identify implications of national, provincial, and municipal codes, by-laws, acts and regulations on a project
- compare warranties and guarantees
- compare a claim, back-charge, and change order
- define a custom contract
- describe the litigation process

CONTENT

1. Define concepts related to the legal system.

- definition of law
- origin of law
- sources of law
- classification of law (statute, common, evidence)
- judicial system
- torts, common, case, precedence, etc.
- trust provisions

2. Define principles of construction contract law.

- offer, acceptance, and consideration (contract A / contract B principles)
- legal capacity to make binding contracts
- illegal and / or non-binding contracts
- letter of intent
- privity of contract
- breach of contract
- misrepresentation
- mistakes
- quantum meruit

3. List characteristics of various forms of contracts.

- forms
- stipulated price
- cost plus
- owner designer
- unit price
- construction management
- purchase orders
- labour
- consultancy
- tender
- design/build
- combination
- oral and written contracts
- forms of sub-contracts
- P3

4. Interpret construction contract documents.

- hierarchy of documents (specifications and drawings)
- purpose of general conditions
- purpose of supplementary conditions
- identify the general conditions of standard form contracts (CCDC, CCA)
- identify sources of standard and non-standard contracts
- prescriptive vs. performance specifications
- penalties
- liquidated damages
- privilege clauses (onerous conditions)
- risk transfer

5. Identify concepts related to insurance.

- liability policies
- risk policies
- indemnity agreements
- insurance policy components
- insurance policy providers
- statute of limitations
- transfer of insurance (timing issue of transferring the liability)

6. Identify concepts related to construction bonding.

- principles of surety
- types of construction bonding
 - o bid bond
 - o performance
 - o labour and material
 - o maintenance
 - o lien bond
 - o warranty
- alternatives
 - o letters of credit
 - o cash

7. Identify methods of dispute resolution.

- negotiation
- mediation
- arbitration
- litigation

8. Identify impact of national, provincial, and municipal codes, bylaws, acts and regulations on a project.

- lien legislation
- health and safety
- environmental

9. Compare warranties and guarantees.

- definition of warranties
- definition of guarantees
- when each would be used

10. Compare a claim, back-charge, and change orders.

- definition of claim, back-charge, and change order
- identification of documentation required
- steps involved
- dispute

11. Define a custom contract.

- when to do it - when not to
- how to do it
- list advantages/disadvantages
- avoiding unenforceable conditions
- terms and conditions
- waivers and exclusions
- supplemental conditions
- owners conditions (privilege clause/custom contract)

12. Describe the litigation process.

- statement of claim
- examination for discovery
- court proceedings
- documentation (job diaries, memos, minutes of meetings)

METHODOLOGY

This course lends itself to lectures by guest speakers and the instructor. Instructors may involve the participants in the following specific techniques and activities:

- icebreaker type activity to get students engaged as soon as possible;
- case studies for the following subjects:
 - o offer and acceptance,
 - o common vs. statute law,
 - o privity,
 - o bidding (Ron Engineering) ,
 - o breach of contract,
 - o lien,
 - o letter of intent,
 - o abandonment,
 - o quantum meruit,
 - o claim / back-charge / change orders/dispute
 - o draft a custom contract.

ASSESSMENT

In order to successfully complete this course, participants will be expected to demonstrate that they have achieved the learning objectives. They will be evaluated through various assignments, projects, and/or tests based on each of these objectives. Final assessment for the course will be determined by the following weighting:

| Learning Objective | Weighting (%) |
|--|---------------|
| 1. Define concepts related to the legal system | 8 |
| 2. Define principles of construction contract law | 8 |
| 3. List characteristics of various forms of contracts | 8 |
| 4. Interpret construction contract documents | 8 |
| 5. Identify concepts related to insurance | 6 |
| 6. Identify concepts related to construction bonding | 10 |
| 7. Identify methods of dispute resolution | 8 |
| 8. Identify impact of national, provincial and municipal codes, bylaws, acts and regulation on a project | 8 |
| 9. Compare warranties and guarantees | 8 |
| 10. Define a claim, back-charge, and change order/dispute | 10 |
| 11. Define a custom contract | 10 |
| 12. Describe the litigation process..... | 8 |
| | 100 |

RESOURCES

Reports, Manuals, Textbooks, and Documents

A Guide to the Project Management Body of Knowledge (PMBOK), PMI Standards Committee, Project Management Institute, 1996 [ISBN: 1-880410-12-5 (pbk. : alk. paper) / ISBN: 1-880410-13-3 (hdbk)]

BC Manual on Management of Building Projects (<http://www.bcprojectsmanual.com>)

Canadian Building Law, 5th Edition, 2001, published by CIQS (ISBN: 1-896606-34-2)

Construction Law by Brian M. Samuels, Prentice Hall (ISBN: 0133251926)

Law for Professional Engineers 3rd Edition, McGraw Hill, Ryerson Limited (ISBN: 007552628-x)

Means Forms for Contractors, R.S. Means Company, Inc., 1990 (ISBN: 0-87629-214-7)

PMP Exam: Practice Test and Study Guide, ESI International, 1998 (ISBN: 1-890367-11-7)

PMP ©: Project Management Professional Study Guide, SYBEX Inc., 2002 (ISBN: 0-7821-4106-4)

The Revay Report published by Revay and Associates (<http://www.revay.com>)

The Law & Business Administration in Canada

Government / Association Websites

Canadian Construction Document Committee <http://www.ccdc.org>

Canadian Law Site <http://www.canadianlawsite.ca/construction>

Construction Law Letter (Canadian newsletter) <http://www.construction-law.com/>

Construction Specifications Canada <http://www.csc-dcc.ca>

QUICKLAW Systems Limited (database) <http://www.qlsys.ca>

Surety Association of Canada <http://surety-Canada.com>

Other Resources

CCA sub-contract forms (all inclusive)

CCDC standard form contracts (all inclusive)

National Building Code and other provincial / municipal acts

Provincial Lien Act and Regulations

Sample bid bond, performance bond, and labour and material bond

Sample contractor's application for bonding

Sample division O from specifications (CSI master format)

Sample unit price contract

Statutory declaration