

PROJECT MANAGEMENT AND TROUBLE-SHOOTING

Typical Legal Services

- ◆ **Assist owners in assembling construction and renovation project teams (including architects, engineers, construction managers, consultants, etc.)**
- ◆ **Negotiate and draft design professional, consultant, and construction contracts on behalf of the owner and assist owners in assembling bid packages.**
- ◆ **Conduct comprehensive project investigations on troubled or failed projects (including investigation of construction defects, design errors and omissions, and failures of project administration/management) in order to recover damages from responsible parties and ensure proper project completion.**
- ◆ **Manage, supplement and/or modify the project team as necessary to increase effectiveness and respond to unanticipated conditions.**
- ◆ **Participate in project meetings to resolve legal and business issues and negotiate/settle disputes during construction.**
- ◆ **Negotiate and settle claims for extra work, errors and omissions, and construction defects during the project's construction and through project close out.**
- ◆ **Manage and negotiate payments to trade contractors upon construction manager default.**
- ◆ **Address budget and scheduling issues to reach timely and economical project completion.**
- ◆ **Negotiate with government officials to resolve code/regulatory issues.**
- ◆ **Assist owners in effective project close out relating to commissioning, warranties and satisfaction of legal requirements**

PROJECT MANAGEMENT AND TROUBLE-SHOOTING

Representative Experiences

◆ **Downtown Residential Development - Temporary Restraining Order Dissolved**

When a 50-story \$250 million residential project in Lower Manhattan was halted by a Temporary Restraining Order initiated by an adjacent property owner and a Stop Work Order issued by the New York City Department of Buildings, John E. Osborn P.C. stepped in and, within 48 hours, arranged for the lifting of the Temporary Restraining Order and the rescinding of the Stop Work Order. The solution was reached by retaining a prominent engineering firm and immediately working with the adjacent property owner and the New York City Department of Buildings to assure that no structural damage had been or would be experienced.

◆ **Fast Food Restaurant Required Fast Odor Compliance**

When adjacent residential property owners blocked alternative solutions for a fast food restaurant to vent its cooking odors, the New York City Environmental Control Board set tight deadlines. These deadlines made compliance a virtual impossibility and made facility closing appear imminent. John E. Osborn P.C., with the assistance of strategic alliance partners, accomplished the delivery and the installation of an electrostatic precipitator (with a typical 14-week manufacturing lead time) over a single weekend, thereby solving the problem and avoiding shutdown of the restaurant.

◆ **New Jersey Condominium Disaster Solved**

When construction was completed on a luxury residential condominium building overlooking the Hudson River, many design and construction problems surfaced. Among the problems were that the ground floor apartment slabs were sinking due to faulty pile design and construction; water pressure was inadequate to higher floors; poured-in-place concrete contained rebar placed too close to the surface; the heating system was ill-suited to use; the roof leaked and piping penetrated shaftways in violation of code. By assembling and overseeing a new design and construction team, John E. Osborn P.C. representing the owner, was able to solve each of the problems with the building and then to obtain full recovery of costs incurred through a law suit against 12 parties, including trade contractors, construction manager and design professionals, through mediation-without even a single deposition.

◆ **Restaurateur Purchases Former Dry Cleaning Site With Spotty History**

John E. Osborn P.C.

ATTORNEYS AND COUNSELORS AT LAW

When a Manhattan bar and restaurant proprietor signed a contract to purchase property near Restaurant Row, he had not focused on its prior use as a dry cleaning establishment. After perchloroethylene ("perc") was discovered in dry wells beneath the building, the deal was believed to be dead. Our firm was successful in negotiating significant concessions and protections, which allowed the deal to go forward at a significant discount to the purchaser.

◆ **New School Construction: Putting a Failed Project Back On Track**

A Long Island school district embarked upon what was to be an approximately one-year project involving the construction of a new three-story school building connecting two existing school buildings (which were also going to be extensively renovated). By the time JEOPC was

facilities issues such as air handling, noise, etc. We also negotiated with government officials to resolve regulatory issues as they arose.

◆ **Manhattan Hotel Chiller System Delivered Despite Contractor Default**

When a midtown Manhattan hotel was renovated, the contractor furnishing the large chiller units defaulted and was unable to complete its obligation under contract due to financial failure. We worked with the contractor and its bonding company to ensure that the equipment was delivered, installed and commissioned and that the appropriate warranties were delivered to the hotel.

◆ **Changed Conditions Found During Construction of Group Practice Office**

Doctors on Long Island embarked on construction of an office for their group practice. When the excavation contractor encountered unanticipated rock, it appeared that the project would have to be abandoned due to inadequate funds to address the changed conditions. Our firm solved the problem by hiring an engineering expert to redesign the foundation and by negotiating with the excavator to keep its original price, thereby allowing the project to be completed on budget and on time.

◆ **Medical Center Construction Manager Filed Bankruptcy Mid-Project**

During the addition of a new wing to a Manhattan medical center, the construction manager filed for bankruptcy, threatening cost overruns and lengthy delays. John E. Osborn P.C., on behalf of the medical center, guided the project to completion by assembling a new project team and by negotiating with the remaining subcontractors to complete the project with minimal disruption and without significant cost overruns.

◆ **Mold in Operating Room**

When mold growth appeared on the walls of a newly constructed health care facility's operating room, John E. Osborn P.C. brought in an environmental consultant to determine the cause and to eliminate the mold. The mold was abated by eliminating its source, the walls were removed and replaced, and the project proceeded without further incident.

◆ **Asbestos Abated and Renovations Completed While Medical Center Remained Open**

A medical center in Queens was concerned with the safety and efficiency of performing a renovation, including asbestos abatement, while the facility remained open and fully operational. By working with hospital executives and contractors, we developed legal

provisions and schedule strategies that accommodated safe and smooth project completion. Our firm also addressed a session of 100 hospital personnel to explain the procedures and to respond to questions about their efficacy.

◆ **Creative Construction Sequencing Kept the Lights on While Recovering from Disaster**

A Manhattan hotel was renovated after a devastating fire that closed it for a month. As a representative of the contractor, John E. Osborn, P.C. worked with the hotel to develop construction sequencing to keep the hotel operating smoothly while the renovation proceeded. At closeout, we negotiated the terms of the final closeout package and payment to the contractor.

◆ **Violation of Lead-Based Paint Notification Requirements Settled Without Fine**

A large residential management company was spot-checked for compliance with HUD Lead Based Paint Notification requirements. Although lead hazards were absent, compliance with paper work requirements was deficient at one building, and the management company faced fines well in excess of \$100,000. We retained an environmental consultant to prepare a comprehensive Paint Maintenance Plan for the management company to follow at all of the properties it owned and managed. The violation was settled without a fine.

◆ **Noise Code Violations Resolved by NYC Telecommunications Hotel**

When massive air conditioning systems that cooled file servers at a telecom hotel exceeded regulatory noise limits, residential building owners living across the street and down the block contacted New York City inspectors. Violations were issued. Our firm was retained by the building's owner to handle negotiations with the tenant and violations issued by the New York City Environmental Control Board. Arrangements were made for community members to hold off further action until the tenant remedied the noise violation as required by its lease. Successful resolution was reached. The tenant paid to retrofit equipment, which cost in excess of \$2 million, thereby addressing the problem and avoiding further violations.

◆ **Mold Abatement Strategy Prevents Delay in College Facility Opening**

The new administration and student activity center of a college experienced mold growth on the walls and in the HVAC duct work due to plumbing leaks and failure to complete roof installation on a timely basis. John E. Osborn P.C. developed a mold abatement strategy that allowed the school to open in a timely fashion

◆ **Troubled Elder Care Facility Project: John E. Osborn P.C. Teamed With Owner's Rep. to Complete Project and Settle Claims**

A new construction, elder care facility in Westchester County was significantly delayed, and serious design and construction problems stood in the way of completion. The Construction Manager was unable to coordinate the work, resolve problems on the project, or effectively manage the Trade Contractors. The A/E team had provided poor project administration and committed a number of design errors. When John E. Osborn P.C. was retained by the Owner, the project was languishing and the parties were heading toward litigation. The firm and the Owner's Representative worked together to trouble-shoot existing problems, uncover defects, and complete the project. Because the CM was unable to effectively manage the project, the firm and the Owner's Representative managed the work and negotiated payments directly with each of the Trade Contractors. Without resorting to litigation, John E. Osborn P.C. was able to keep the CM and A/E Team engaged on the project as necessary to complete the work, and negotiated final settlements with the CM, the Architect and all Trade Contractors.

◆ **Manhattan Condominium Terrace and Balcony Repair Program**

A Midtown Manhattan condominium building experienced significant cracking in its balcony and terrace walls. The condominium association began a \$5.5 million repair program to demolish and reconstruct and commenced a lawsuit against a John E. Osborn P.C. client, the sponsor of the project, to recover the cost of the repairs. John E. Osborn P.C. engaged an A/E team to investigate the problem, assess culpability and design and formulated an effective repair program. Under the auspices of John E. Osborn P.C. and the A/E team, the repairs were successfully carried out and the cost was borne by the original construction manager, contractors and architect.