

Thursday, November 4, 2021
9:30 AM – 10:45 AM

Seminar 9

**Are We Covered? Construction Insurance, Indemnity and
Risk Management Strategies for Retail Projects**

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- I. Risk Allocation and Project-Specific Considerations
 - A. Landlord/Owner Concerns
 - 1. Risk Allocation and Coordination
 - 2. The Role of Risk Managers
 - B. Tenant Concerns
 - 1. Contractual Assumptions of Risk
 - 2. Coverage Obligations and Limitations
 - 3. Deductibles, Self-Insured Retention and Exclusions
 - C. Builders Risk Insurance
 - 1. What is An “All Risk” Policy?
 - 2. What Coverage does Builder’s Risk Provide?
 - 3. Options for Buyers and Beneficiaries
 - D. Commercial General Liability
 - 1. Differences Between CGL and Builder’s Risk
 - 2. “Standard” CGL Coverages and Exclusions
 - 3. Additional Insured Requirements
 - E. Umbrella and Excess Coverage
 - 1. Right-Sizing Coverages
 - 2. Exhaustion, Contribution and Other Limitations
 - F. Professional Liability
 - 1. Architects, Engineers & Design/Builders
 - 2. Claims Made vs. Occurrence-Based Coverage
 - 3. Project-Specific Endorsements
 - G. Wrap-Up Policies and Alternatives
 - 1. Feasibility of Non-Traditional Insurance Programs
 - 2. OCIP, CCIP and OPPI
 - 3. Economic and Administrative Considerations
 - H. New Insurance Products and Coverages

1. Business Interruption
2. Cyber Liability Coverage
3. Cargo Insurance
4. Environmental Coverages
5. Contractor's Pollution Liability Coverage
6. Subcontractor Default Insurance

II. Payment and Performance Bonds

A. Key Considerations

1. Project-Related Issues
2. Contractor-Related Issues

B. Performance Bonds

1. What is the Obligation to Perform?
2. Completion Options and Requirements
3. Surety Notice Requirements
4. Waiver of Notice Clauses & Indemnity
5. Subcontractor Bonds vs. General Contractor Bonds

C. Payment Bonds

1. What is the Obligation to Bond off Liens?
2. Dual Obligee Riders
3. "Claimants" Defined
4. Notice Requirements
5. Discharge Complications and Issues

III. Construction Defect Claims and Insurance Considerations

A. Rights and Responsibilities

1. Insured Notice Obligations
2. Insurer Decisions: Accept, Reserve or Disclaim
3. Insurer Duty to Provide Independent Counsel

B. Coverage Determinations and Exclusions

1. Does Defective Work Constitute Property Damage?
2. Additional Insureds: Complications and Considerations

C. Recoverable Damages

1. Economic Loss vs. Property Damage
2. Consequential Damages and Liquidated Damages