

## GREEN BUILDING

Hodgson Russ's multidisciplinary team of environmental, construction, insurance coverage, torts and product liability, real estate, and energy attorneys serves developers, builders, architects, owners, and tenants involved with designing, building, and using green buildings. These attorneys represent clients through all phases of the green building project life cycle, from conceptualization and design through construction, completion, and day-to-day operation.

Our team has the necessary experience in all relevant areas of law — as well as knowledge of green building industry trends, technologies, and legislation — to help clients capitalize on incentives and opportunities, assess and mitigate risk to avoid costly litigation, and protect their interests when disputes arise.

### **Certification, Financing, and Incentives**

We help clients analyze the costs and benefits of green building certification, and we advise them through the entire process of obtaining — and maintaining — certification through Leadership in Energy and Environmental Design (LEED) and other green building rating programs. In addition to counseling on compliance with all relevant regulations, we can also assist with the myriad issues related to certification, including assessment of liability when a project fails to achieve certification, or when construction defects or errors in energy modeling result in failure to comply with certification standards

Hodgson Russ assists clients in obtaining both public and private financing for projects involving green building practices. We have extensive experience securing project funding through a wide range of public finance incentives, including public-private partnerships, state and federal tax credits, industrial development agency incentives, and other avenues. We guide clients through the requirements of sustainability- and energy-focused incentive programs, such as those offered through the American Recovery and Reinvestment Act and state programs such as those offered by the New York State Energy Research and Development Authority. In addition, we help clients secure investment capital and other private funding for green building projects.

### **Real Estate**

Businesses face complex real estate needs as they seek new technologies and move toward green work environments. From identifying the availability of state, federal, and local tax incentives to understanding the numerous regulations and laws governing the development and use of green building projects, our real estate attorneys have a strong foundation in helping clients identify opportunities and

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### **Professionals**

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avoid pitfalls in connection with green building issues. We represent educational institutions, developers, manufacturers, and numerous other businesses in these matters. Our attorneys structure complex transactions, identify opportunities for public and private financing and tax incentives, and help companies understand the requirements of various green building certifications.

### **Municipal Codes and Incentives**

Drawing on our extensive municipal law experience, we assist local governments in providing financial incentives for sustainable development as well as drafting ordinances to mandate compliance with green rating systems. We also advise on compliance with federal and state regulations as well as energy efficiency codes, including those outlined in the American Clean Energy Leadership Act (ACELA).

### **Insurance Coverage and Construction Documentation**

As technologies and building practices evolve, so do the insurance needs of businesses and individuals involved in the design, construction, or operation of green buildings. Our insurance coverage team helps clients procure insurance coverage appropriate for green building projects and can advise on all types of policies, including those unique to green buildings, to address risks arising during development, construction, and operation.

As recent lawsuits attest, traditional form agreements and other documents typically are not fit for use in green building projects. To help clients reduce the risk of construction or insurance litigation, we review, draft, and negotiate design agreements, construction contracts, leases, building specifications, and other documentation that specifically addresses the numerous and complex legal and technological aspects of green building development and operation. We also conduct due diligence in mergers and acquisitions involving sustainable development projects.

### **Intellectual Property**

We assist manufacturers and innovators of green building products and services with the full range of their intellectual property needs. Our services include counseling in relation to patentability of inventions and availability of marks and names; preparing, filing, and prosecuting applications for patents, trademarks, service marks, and copyrights; preparing and negotiating technology and other licensing agreements; and litigating intellectual property disputes.

### **Experience**

Represented a large, publicly traded financial institution with respect to construction contracts for a regional headquarters (\$3.6 million, including sustainable project provisions for LEED certification), leasehold improvements (\$525,000), branch renovations (\$1,020,000), and multi-site upgrades at dozens of their branches under a cost of work with GMP model.

### **In the News**

Hodgson Russ Taps Head of New Real Estate, Enviro Practice  
*Law360*, October 20, 2023

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Hodgson Russ Client CleanEdison Interviewed About Green Building Industry  
August 7, 2009

### **Press Releases**

Two Hodgson Russ Attorneys Selected to Author Monthly Columns in Tax Notes State  
*Hodgson Russ Press Release*, April 27, 2020

### **Presentations & Events**

Opportunities Arising from Decarbonizing and Deregulating the Economy in the U.S.  
November 8, 2017

Opportunities for Building Owners and Property Developers from the Reforming the Energy Vision (REV) Program  
Buffalo, NY, June 1, 2016