BERGER SINGERMAN
FLORIDA'S BUSINESS LAW FIRM

CONSTRUCTION

Construction, a major component of the real estate industry, is a leading industry in its own right and an important economic driver in Florida. We have extensive construction and development related experience and relationships with industry participants.

Our Construction Services Team provides comprehensive legal services throughout all phases of construction projects, including pre-construction contract negotiations bonding, contract performance, and dispute resolution. Our attorneys have extensive experience representing the various parties involved in the design and construction process: owners, developers, general contractors, subcontractors, construction managers, suppliers, consultants, sureties, lenders, investors, and design professionals, including architects, engineers, land planners, landscape and interior designers, and surveyors. We have assisted clients in a wide variety of condominium and multi-family rental projects, including office buildings, shopping centers, hotels, condominium buildings, apartment buildings, multi-purpose buildings, marinas and office/retail projects near shipping ports, condominium conversions, mixed-use projects, public infrastructure projects, environmental remediation projects, and high-end single family residences. We have worked with local counsel in connection with international construction projects in Jamaica, Barbados and the Caribbean island nations.

We focus on enabling our clients to commence and complete construction projects in a timely and cost-effective manner and to successfully resolve any claims. Our attorneys are involved with solicitations, bidding, negotiating and drafting AIA, FIDIC and other contract documents with an emphasis on proper contract administration, timely completion of projects within the contract budget, claims procedure compliance, effective risk management and efficient resolution of business disputes.

When construction-related disputes cannot be resolved, our firm has the experience and resources to litigate disputes in both state and federal courts, to mediate and arbitrate, and in to engage in administrative hearings, if appropriate. We have successfully represented clients in the following types of construction-related disputes:

- Bid protests
- Construction lien claims and foreclosures
- Payment and performance bond claims
- Contract disputes
- Negligence claims
- Scheduling and delay claims
- Construction defect claims
- Design defect or warranty claims
- "Failure to disclose" claims
- Change order disputes
- Extra work disputes
- Scope of work disputes
- Professional malpractice claims

- Water intrusion, indoor air quality and mold claims

Working with members of our nationally recognized Restructuring team, members of our Construction Services Team are often involved in many of Florida's most complex consensual workouts and bankruptcies of developers, contractors and construction related entities. We are also retained by sophisticated investors pursuing investments in distressed real estate, both land and developments.

Our professional relationships with leading industry consultants, investment bankers, lenders and other attorneys specializing in serving the construction sector is another resource available to our clients.

Representative Matters

- Representation of developers of master planned projects including residential and mixed use condominiums in all phases of project development and contract negotiations with architects, designers, engineers, construction managers and specialty consultants including drafting and negotiating construction agreements, design agreement, development agreements and trade contracts on behalf of owners, developers and contractors, construction law transactional advise, project delivery and contracting advice, counseling through the contract administration process, advice regarding surety bonding, insurance coverage, building loan funding, labor issues, warranties, lien matters, and the allocation of construction and design risks and responsibilities.
- Representation of institutional real estate developers in the negotiations of a development agreement, joint-venture formation, and land acquisition for multiple-use town center project including lead role in creating the ownership structure for the joint venture and for the highly complex limited liability company that served as the developer and counseling on all aspects of construction including negotiation of contracts, advice in the bidding phase, procurement issues, general consultation during the progress of the work, and mechanics and construction lien issues.
- Representation of developers, owners, contractors, and other professionals with respect to construction contracts, from customized forms to standard industry forms including the American Institute of Architects (AIA), Engineers Joint Contracts Documents Committee (EJCDC) and the Construction Management Association of America (CMAA), to develop the most appropriate forms for the project.
- Represented the owner of industrial and office properties in South Florida before the City Council of Hialeah and secured approval of a historic agreement for the development of 504 acres. The agreement includes a matrix of improvements and dedications including a 30-acre parcel to the City of Hialeah for a passive park and a fire station. This development agreement paves the way for over 7M sq. ft. of commercial and industrial development on a former landfill which is ready for development.
- Represented Miami Gardens Park LLC before the Miami-Dade Community Zoning Appeals Board and successfully obtained the rezoning of an 8.2 acre vacant property from Industrial to Residential to allow for the construction of 178 garden style apartments. Although the vote was unanimous, an appeal was filed with the County. Following weeks of discussions with the appellants, a private settlement agreement was finalized and executed allowing for the appeal to be withdrawn.
- Represented a developer in a land-use amendment application before the Miami-Dade County Commission. The application for zoning was approved from office and industrial to medium density residential. This allowed our client to begin a 130 unit residential development.
- Represented a large real estate developer specializing in low income housing, who wanted to lift the rent restrictions off of its low income housing project in order to substantially increase rental income. This involved a special, fairly complex process that had rarely been used previously whereby the FHFC can release the restrictions through an elaborate application process. After lengthy negotiations with the State, Berger Singerman was able to reach a settlement whereby the restrictions could be released earlier than expected and in a manner that exceeded the client’s expectations.
- Represented a South Florida developer in the defense of a multi-million lawsuit brought by a homeowner’s association, which alleged construction defect claims, including claims relating to roofs, stucco and common area infrastructure.

- Represented the developer of a luxury, high-rise condominium in Fort Lauderdale against the general contractor hired alleging claims for construction delays, contractual warranty claims, construction defect claims and breach of contract claims.
- Represented an environmental consulting firm in the defense of a multi-million claim brought by a prominent Palm Beach County homeowner against various construction participants, alleging that the firm's mold inspection, mold testing, mold assessment and mold remediation protocol were flawed.
- Represented the owner of an apartment complex in Davie, Florida, against an architect alleging claims under the Florida Accessibility Code and the Federal ADA Standards for Accessible Design.
- Represented a Florida developer in the defense of a claim by a Miami condominium alleging a defective fire sprinkler system caused major flooding, roof failures and mold.
- Represented owners of a luxury home and property in Palm Beach County against the builder for water intrusion, mold and significant structural issues.
- Represented the owner of an award-winning home in Southwest Florida against a general contractor, roofer and HVAC contractor for improper installation of the roofing components and HVAC units.