



Green Building

Arent Fox has an awareness of industry trends and is committed to providing new services to address the emerging business needs of green building stakeholders. Our group is the first of its kind in New York City.

Overview

Arent Fox attorneys are increasingly advising owners, contractors, and design professionals on the legal issues associated with green building, particularly with respect to LEED and other green certification provisions in contracts, leases and marketing materials. We are also experienced in reviewing state- and local-level green building legislation, as well as translating associated requirements into contract documents.

Our attorneys are frequent speakers and authors on the subject of green building, and one of our attorneys, Stephen Del Percio, was one of the first ten in the country to be certified by the U.S. Green Building Council as a LEED Accredited Professional.

Stephen also maintains *greenbuildingsNYC*, a web site profiling green architecture, design, and real estate in New York City (www.greenbuildings.com), as well as the *Green Real Estate Law Journal*, a forum for industry stakeholders to review and discuss the emerging legal issues associated with green building sustainability (www.greenrealestatelaw.com).

Stephen holds an undergraduate degree in civil engineering and worked in the New York City construction industry prior to attending law school.

Areas of Practice

Our attorneys in the green building practice group advise clients on the emerging legal and regulatory issues associated with green real estate, including:

- **Green Leases:** The recent proliferation of interest in the green lease has resulted in a number of form green leases promulgated by various organizations, including BOMA and the Model Green Lease Task Force. Our practice group offers advice on incorporating many of these form green lease provisions into commercial real estate leases, as well as risk management strategies for landlords seeking to market energy efficient or otherwise sustainable corporate office space.
- **Alternative & Renewable Energy:** Alternative and renewable energy installations implicate a variety of emerging legal issues for green building stakeholders, and our group is well-versed in both risk management strategies and procuring available tax incentives under federal- and state- and local-level regulatory schemes.
- **Green Building Regulatory Compliance:** 14 percent of U.S. cities larger than 50,000 people have a green building program in effect, and these figures are increasing rapidly. Our group has experience in advising clients as they navigate these types of regulatory structures and assisting them in either complying with mandates or earning incentives that are offered under such programs. Most critically, we recognize the importance of translating procedures for complying with applicable programs into contract documents.
- **Green Construction Contracts:** Our attorneys are experienced in negotiating and drafting every manner of construction agreement. Our group has drafted a variety of green construction contract provisions in order to protect our clients from the types of claims that have been reported to date in connection with green building projects.
- **Green Building Insurance Coverage:** Outside of the property insurance sector, there has been very little discussion of how green building impacts the various policies of insurance that construction industry stakeholders must procure in connection with their projects. Our group advises clients both with respect to the types of policy endorsements currently available on the market, as well as the types of coverage – or gaps therein – that traditional policies of insurance will afford a green building project team.
- **Green Building Litigation:** Our group has extensively reviewed and analyzed the first two reported green building litigations in the country - *Shaw Development v. Southern Builders* and *AHRI v. City of Albuquerque* – with emphasis on contract risk management strategies for similar stakeholders. If necessary, we are prepared to use our construction and litigation expertise to protect our clients' interest in achieving their green project objectives.

Scope of Services

- Reviewing, preparing, and negotiating green construction contracts and leases;
- Researching specific green project materials and technologies and subsequent recommendations for alternative products and/or edits to language in contract documents;
- Assistance selecting the appropriate LEED rating system for a particular project, incorporating those requirements into contract documents, and, as a LEED AP, providing counsel during the course of the LEED certification process;
- Assistance identifying municipalities providing financial incentives for green development or mandating compliance with particular rating systems and translating associated requirements into contract documents;
- Assistance procuring and securing appropriate insurance coverage for green building projects;
- Reviewing, editing, and proposing language for green building project marketing materials on behalf of owners, with particular emphasis on accurate representations regarding property's green features and/or anticipated level of third-party certification;
- Assistance securing funding for green projects from local programs (such as NYSERDA) or any other green building funding provider;
- Assistance securing investment capital for green developments;
- Reviewing and preparing written comments and advice with respect to drafts of municipal- or state-level green building ordinances, as well as advice on how similarly-situated municipalities and states have crafted green building legislation;
- Providing recommendations regarding certification under other green building (or green product) rating systems, including the Green Building Initiative's Green Globes, Green Seal, and NAHB;
- Performing research and preparing written compilations of White Papers or industry trend reports; and
- Providing green building stakeholder education through the development of written materials or speaking engagements.

Related Practice Areas

Construction

Arent Fox provides a full range of construction services to the real estate, construction and design industries. Our accomplished transactional attorneys and experienced litigators represent the broad range of project participants – including owners, developers, contractors, architects, engineers, project managers and construction managers – in a wide variety of projects and objectives. The diversity of our clients provides us with the ability to understand the needs of all parties involved in construction projects, including complex multiparty transactions and interrelated real estate, corporate and financing issues.

Real Estate

Arent Fox real estate attorneys have advised lenders, borrowers, investors, developers, contractors and other clients large and complex workouts, dispositions and acquisitions of distressed loans, and distressed real property. We have engineered and negotiated virtually every type of workout and remedy/enforcement arrangement. We advise on one-off transactions and large multijurisdictional portfolio financings of multifamily housing, office buildings, hotels and resorts, senior-living facilities, and retail and leisure properties.

Energy and Environmental

Arent Fox provides legal services in the areas of international and domestic energy projects, infrastructure development and privatization and regulatory structures. Our clients include large multinational corporations, international financial institutions and foreign governments and governmental entities.

Government Relations

Arent Fox has one of the nation's leading public policy practice groups, bringing first-hand knowledge, judgment and experience to clients' government relations needs. We have a bipartisan team of lawyers and policy professionals with experience in Republican and Democratic politics and government service. The group includes two former US senators, a former member of the board of directors of the Export-Import Bank of the United States, as well as attorneys with extensive experience on Capitol Hill, in the executive branch and in the political arena.

Intellectual Property

Arent Fox offers a broad range of services related to the acquisition, enforcement and commercial exploitation of IP rights and assets. With extensive experience prosecuting and defending against infringement claims in state and federal courts throughout the United States, Arent Fox is one of the nation's preeminent IP litigation firms. Our focus areas include litigation, patent, trademark, copyright and entertainment, right of publicity, contest and sweepstakes and advertising.

About Arent Fox LLP

Arent Fox LLP (www.arentfox.com) is a full-service law firm with offices in New York, Washington, DC, and Los Angeles. With more than 300 lawyers and 26 practice areas, the firm has a wide range of experience in corporate securities and transactions, financial restructuring and bankruptcy, government relations and regulation, labor and employment law, finance, tax, corporate compliance and the global business market. Arent Fox provides services to Fortune 500 companies, health care facilities, government agencies, trade associations, foreign governments, start-up companies and other entities.