MANDELBAUM BARRETT PC
ATTORNEYS AT LAW

Construction Law Group Newsletter

Volume 2

Summer 2026 Edition

A Message from our Chair:

As we move through a busy construction season and look ahead to the remainder of the year, I want to take a moment to thank our clients, colleagues, and industry partners for their continued trust in our Construction Law Group.

The construction industry continues to face significant challenges – from labor shortages and safety compliance to regulatory shifts, payment disputes, and evolving project delivery methods. At the same time, we are seeing new opportunities driven by infrastructure investment, development activity, and innovation across the sector. Our team is proud to work alongside owners, contractors, subcontractors, and developers as they navigate this complex and fast-moving landscape.

Looking ahead, our calendar is filled with industry events, speaking engagements, and timely resources designed to address the issues that matter most to construction professionals. Whether it's contract risk management, labor and employment concerns, workplace safety, claims avoidance, or dispute resolution, we remain committed to providing practical, business-focused legal guidance grounded in real-world construction experience.

I encourage you to stay connected with us through our newsletters, updates, and upcoming programs. We value the relationships we've built within the construction community and look forward to continuing to support your projects, your teams, and your long-term success.

Wishing you a productive and successful season ahead.

Jacqueline Greenberg Vogt
Chair, MB Construction Law Group

What's Inside!

FEATURED BLOGS/ARTICLES

Project Delays in 2026: What Construction Lawyers Need to Know

Project delays have long been a defining risk in construction, but recent industry data suggests the issue is becoming more systemic, and more preventable. A recent survey of construction professionals indicates that only one in three projects consistently start on time, with many delays extending one to three months or longer. These delays are not merely operational inconveniences; they are material drivers of cost overruns, scheduling conflicts, and disputes, placing construction lawyers at the center of risk allocation, contract drafting, and claims resolution.

Delay Drivers Extend Beyond Labor Shortages

While labor shortages remain the most commonly cited cause of delayed project starts, they are far from the only factor. Financing delays, permitting and inspection bottlenecks, material procurement issues, and late-stage design changes all contribute to schedule disruption.

From a legal perspective, these overlapping causes complicate delay claims and defenses. Determining responsibility for delay, whether attributable to owner, contractor, or a third-party, requires careful analysis of contract language, notice provisions, and project documentation. The increasingly multifaceted nature of delay events underscores the importance of clearly defined risk allocation provisions at the outset of a project.

The Hidden Risk in Procurement and Supply Chain Decisions

One of the more notable industry trends is the continued reliance on "just-in-time" (JIT) procurement strategies. While JIT can reduce storage costs and improve cash flow, it leaves projects highly vulnerable to supply chain disruptions, weather events, and market volatility.

Many contractors continue to manage procurement at the project level without fully integrating procurement teams into early-stage planning. This approach may expedite short-term decision-making but often introduces longer-term risks, including inconsistent pricing, vendor performance issues, and limited visibility into material availability.

For construction lawyers, this raises important considerations. Contracts should address procurement responsibilities, supply chain contingencies, escalation clauses and the allocation of risk associated with material delays. Without these provisions, disputes arising from late deliveries, rising material costs or vendor failures can quickly escalate.

Planning and Coordination as a Legal Risk Mitigation Tool

The data suggests that enhanced project planning and early coordination, particularly involving procurement teams, are among the most effective strategies for reducing delays. From a legal standpoint, this reinforces the value of front-end contract structuring.

Provisions addressing scheduling, procurement timelines, substitution rights, and delay damages must be carefully drafted to reflect the realities of today's construction environment. Additionally, incorporating clear communication protocols and documentation requirements can strengthen a party's position in the event of a dispute.

Conclusion

Project delays in 2026 are not solely the result of external pressures such as labor shortages or supply chain disruptions. They are increasingly tied to internal decision-making, particularly in procurement and project coordination.

For construction lawyers, advising clients in this environment requires a proactive approach, one that aligns contract language with operational realities, anticipates points of failure, and ensures that risk is allocated clearly and fairly. As delays become more complex, so too must the strategies used to prevent and manage them.

Additional Resources

For those looking to stay informed on evolving trends impacting project timelines throughout 2026, including labor dynamics, supply chain developments, and procurement strategies, resources such as Construction Dive provide ongoing industry insights and analysis.

Staying current on these developments can help contractors, owners, and advisors better anticipate risks and adapt their project planning and contractual approaches accordingly.

FEATURED BLOGS/ARTICLES

New York City Targets Long-Standing Scaffolding with Regulatory Changes

New York City has long been defined by its skyline, and, at street level, by the scaffolding that accompanies ongoing building maintenance and inspection requirements. While intended as a temporary safety measure, scaffolding has increasingly become a semi-permanent feature across many parts of the city.

Recent announcements from Mayor Zohran Mamdani signal a shift in how the City plans to address this issue. A new set of policies is aimed at reducing the amount of long-standing scaffolding by modifying inspection timelines, imposing stricter limits on duration, and introducing new penalties for non-compliance. These changes reflect a broader effort to balance public safety with quality-of-life concerns for residents, businesses, and pedestrians.

What Is Driving the Change

Under current regulations, building owners are required to conduct periodic façade inspections, which often necessitate the installation of sidewalk scaffolding to protect pedestrians.
In practice, however, scaffolding frequently remains in place for extended periods, sometimes for years, due to delays in inspections, repairs, or administrative processes.

This has led to several ongoing concerns:

- Reduced natural light at street level
- Decreased foot traffic for retail businesses
- Aesthetic and walkability impacts in dense urban corridors
- Prolonged disruption despite limited active construction

The City's new policies are designed to address these challenges while maintaining core safety objectives.

Key Policy Changes

The proposed regulatory updates introduce several notable adjustments:

Extended Inspection Cycles

- Façade inspection requirements will shift from every five years to every six years, reducing the frequency of full-scale inspection setups.

Modified Requirements for Newer Buildings

- Buildings 40 years old or newer may:
    - Rely on visual inspections every three years, and
    - Delay more comprehensive inspections for up to 12 years

Limits on Scaffolding Duration

- New enforcement measures will impose fines for scaffolding that remains in place beyond a defined timeframe, particularly where no active work is occurring.

Restrictions on Physical Footprint

- Scaffolding installations will be subject to a maximum extension of 40 feet into sidewalks and adjacent areas, reducing their impact on pedestrian movement and streetscape.

Why This Matters for Owners and Developers

These changes introduce both opportunities and new compliance considerations for property owners, developers, and managers of multi-story buildings in New York City.

Reduced Operational Burden

- Longer inspection intervals may help reduce the frequency of costly scaffolding installations and related disruptions.

Increased Enforcement Risk

- With new penalties tied to prolonged scaffolding, owners will need to ensure that:
    - Inspections are completed efficiently
    - Repairs are addressed without unnecessary delay
    - Permits and timelines are actively managed

Project Planning and Coordination

- The updated framework may require more proactive coordination among:
    - Engineers
    - Contractors
    - Property managers
- to avoid extended installations that could trigger fines or enforcement action.

Practical Considerations

Property owners and developers operating in New York City may want to consider several proactive steps:

- Review existing scaffolding installations to determine whether timelines align with anticipated regulatory limits
- Coordinate early with design professionals and contractors to streamline inspection and repair schedules
- Monitor evolving guidance as the City implements and enforces these changes

Evaluate potential cost savings associated with extended inspection cycles while balancing compliance risks

Looking Ahead

New York City's effort to reduce long-standing scaffolding reflects a broader trend toward reexamining legacy regulatory frameworks that impact the built environment.

While safety remains the primary driver of façade inspection requirements, these changes suggest a growing willingness to revisit how those requirements are implemented in practice, particularly where they affect day-to-day urban experience.

For construction industry stakeholders, the evolving regulatory landscape underscores the importance of staying informed and adapting compliance strategies to align with shifting municipal priorities.

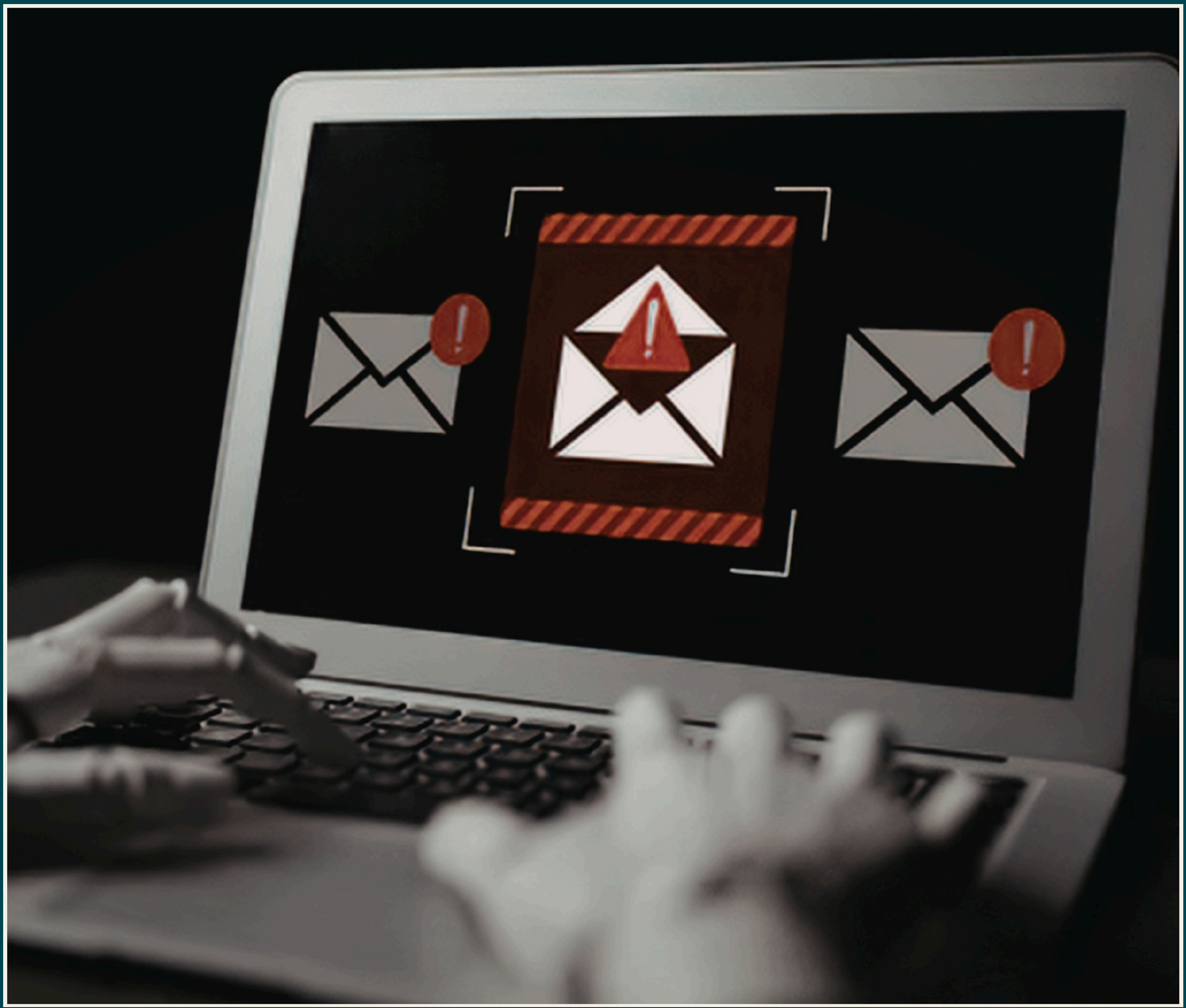
Additional Resources

For additional background on New York City's proposed scaffolding reforms, including commentary and a video overview released by the Mayor's office, please refer to the following:

- Variety – "Zohran Mamdani Interviewed by John Wilson in Video About Reducing New York City Scaffolding"

Property owners and industry professionals should continue monitoring guidance from New York City agencies as these policies are further implemented and clarified.

FEATURED BLOGS/ARTICLES



Permit Fee Phishing Scams in Construction Projects: What Owners and Contractors Need to Know

As residential construction projects continue to increase, so do targeted cyber scams aimed at property owners, contractors, and project stakeholders. One emerging scheme involves fraudulent “permit fee” emails that appear to come from local government agencies.

These messages are designed to exploit active construction timelines, creating urgency and pressuring recipients to act quickly before verifying legitimacy.

How the Scam Works

In this scenario, a recipient receives an email claiming that a permit-related fee must be paid immediately to avoid delays on a construction project.

The message often appears credible and may include:

- A project address or permit number
- References to local municipalities or agencies
- Official-looking formatting and language
-

The email typically instructs payment via:

- Wire transfer
- Payment applications (such as Zelle or Venmo)
- Cryptocurrency

These payment methods are intentionally difficult to trace or recover once sent.

Why Construction Projects Are Targeted

Construction projects, particularly residential builds and renovations, create ideal conditions for these scams:

- Publicly Available Information: Permit filings and property details are often accessible through municipal databases
- Time Sensitivity: Project delays can carry significant financial consequences
- Multiple Stakeholders: Owners, contractors, and consultants may all expect payment-related communications

This combination makes it easier for fraudulent requests to appear legitimate.

Key Risk Indicators

Construction professionals and property owners should be cautious of:

- Requests for immediate payment tied to project delays
- Instructions to use non-traditional payment methods (crypto, apps, wire transfers)
- Emails directing you to new or unfamiliar payment channels

Communications that discourage independent verification.

Best Practices to Mitigate Risk

To reduce exposure to these types of phishing scams:

- Independently verify all payment requests by contacting the issuing agency through its official website
- Avoid using contact details provided within the email itself
- Confirm payment procedures in advance with municipalities handling your project
- Educate project teams on common fraud tactics and escalation procedures

Legal and Practical Considerations

From a legal perspective, fraudulent payment schemes can create disputes over responsibility, particularly where multiple parties are involved in project administration.

Contractors and owners may want to consider:

- Incorporating clear payment verification protocols into project workflows
- Establishing designated communication channels for financial requests

- Reviewing insurance coverage related to cyber fraud and financial loss

Conclusion

As construction projects become increasingly digitized, cybersecurity risks are becoming a more relevant part of project management.

Staying vigilant and implementing verification procedures can help prevent avoidable financial loss and project disruption.

FEATURED BLOGS/ARTICLES

New Jersey's Permitting Dashboard Pilot Program Signals Major Shift in Development Approvals

New Jersey is taking a significant step toward modernizing its permitting process, and developers, project owners, contractors, and investors should be paying close attention. On her first day in office, Governor Mikie Sherrill signed Executive Order 5 (EO 5), launching a sweeping initiative aimed at reducing permitting delays, increasing transparency, and improving accountability across state agencies.

For years, New Jersey's permitting system has been a source of frustration for the development community. Lengthy review timelines, overlapping agency requirements, and limited visibility into application status have often added months, and in some cases years, to project schedules. These delays can increase construction costs, complicate financing timelines, and create uncertainty for developers and project stakeholders alike. EO 5 represents one of the most substantial efforts in recent memory to address those concerns through a coordinated, cross-agency approach.

The Executive Order establishes a Cross-Agency Permitting Team within the state's Strategic Initiative & Economic Opportunity Office with the stated goal of streamlining the permitting process, reducing project delays and costs, and improving transparency and accountability for applicants. It also directs state agencies to catalog the permits they issue and work toward creating a more centralized and transparent permitting framework. A key component of that effort is the development of a new Permitting Dashboard designed to allow applicants to track permit applications in real time across multiple state agencies.

Governor Sherrill formally announced the launch of the NJ Permitting Dashboard Pilot Program during her first 100 days in office, marking the administration's first major step toward implementing the infrastructure envisioned under EO 5. The pilot program will involve the New Jersey Department of Environmental Protection (DEP), the Department of Transportation (DOT), and the Department of Community Affairs (DCA). Through a single online platform, qualifying applicants will be able to monitor application status updates, agency review timelines, target due dates, and required next steps throughout the permitting process.

To qualify for the pilot program, a project must require permits from at least two participating agencies or at least three permits from one participating agency. Eligible projects include multifamily and mixed-use housing developments containing at least 25 units, commercial projects expected to create permanent or temporary jobs, and qualifying solar or energy storage developments. Applications for the pilot program are due by May 21, 2026, and up to ten projects will ultimately be selected through a lottery process.

Although the dashboard remains in its pilot stage, the initiative signals a meaningful shift in how New Jersey may approach development approvals moving forward. For developers and project owners, permitting uncertainty can significantly impact project schedules, labor coordination, financing obligations, and overall construction costs. Increased transparency and accountability across agencies could help improve predictability and efficiency throughout the approval process.

Of course, the long-term effectiveness of the program will depend on the administration's ability to maintain coordination across agencies and consistently enforce permitting timelines. Still, the administration's early focus on permitting reform suggests this initiative is likely to become an important development for New Jersey's construction and real estate industries in the years ahead. Developers, contractors, and project stakeholders with qualifying projects should closely monitor the pilot program and evaluate whether participation may provide strategic advantages for pending or future developments. As New Jersey continues exploring ways to modernize its permitting infrastructure, initiatives like the Permitting Dashboard may play a significant role in shaping how projects move through the approval process moving forward.

FEATURED BLOGS/ARTICLES

Construction Risk is Changing: Are Traditional Protections Keeping Pace?

For years, construction projects have relied on a familiar framework to manage risk: insurance policies, surety bonds, and carefully negotiated contract provisions. While these tools remain essential, today's construction environment is exposing limitations in traditional risk management strategies.

Rising material costs, labor shortages, supply chain disruptions, financing challenges, and evolving regulatory requirements have created a level of uncertainty that many projects were not designed to absorb. As a result, owners, developers, contractors, and subcontractors are increasingly confronting risks that fall outside traditional coverage mechanisms.

The New Reality of Construction Risk

Construction projects have always involved uncertainty. What has changed is the speed at which risks can develop and the financial impact they can have before a formal claim or dispute ever arises.

Many projects are experiencing sustained cost increases related to labor availability, material pricing, scheduling delays, and supply chain interruptions. These issues may significantly impact project profitability, yet they often do not trigger insurance coverage or bond protections.

At the same time, subcontractors are operating in a more challenging financial environment. Higher borrowing costs, delayed payments, and cash flow constraints can place pressure on otherwise capable firms. By the time a subcontractor defaults, project stakeholders may already be facing substantial delays, increased costs, and operational disruptions.

The Gap Between Risk and Recovery

One of the most significant challenges facing the construction industry today is the disconnect between when financial stress occurs and when traditional risk-transfer mechanisms respond.

Insurance policies and surety bonds are generally designed to address specific triggering events. However, many of the issues affecting projects today develop gradually over time.

For example, a project may experience months of productivity losses, escalating material costs, permitting delays, or sequencing challenges. These issues can steadily erode profit margins and strain working capital without triggering a claim under an insurance policy or bond.

As a result, project stakeholders may find themselves absorbing substantial financial exposure long before traditional protections become available.

Why Contract Strategy Matters More Than Ever

In this environment, risk management extends beyond securing adequate insurance coverage.

Construction contracts play a critical role in allocating risk, establishing responsibilities, and providing mechanisms to address unforeseen circumstances. Escalation provisions, change order procedures, force majeure clauses, payment protections, and dispute resolution strategies can all influence how effectively a project responds to changing conditions.

Carefully evaluating these provisions at the outset of a project can help reduce uncertainty and provide greater flexibility when challenges arise.

Likewise, ongoing project monitoring and proactive communication among stakeholders can help identify potential issues before they evolve into larger disputes or financial losses.

Taking a More Strategic Approach to Risk

Alternative risk management strategies are becoming increasingly common on complex projects. Depending on the circumstances, project stakeholders may explore tools such as subcontractor default insurance, owner-controlled or contractor-controlled insurance programs (OCIPs and CCIPs), cost escalation clauses, alternative dispute resolution provisions, enhanced due diligence on subcontractors and suppliers, and project-specific contingency planning. While no single solution eliminates risk, these strategies can help organizations respond more effectively when challenges arise.

Looking Ahead

Traditional insurance and bonding solutions remain important components of any construction risk management program. However, today's construction landscape requires a more comprehensive approach.

As projects become larger, more complex, and more vulnerable to economic and regulatory pressures, stakeholders should carefully evaluate whether their contracts, risk allocation strategies, and project controls are keeping pace with changing realities.

A proactive approach to construction risk management can help organizations better navigate uncertainty and position projects for long-term success.

For additional resources on the ways construction risks are changing, please see this article by AON here.

SPEAKING ENGAGEMENTS AND EVENTS

Jacqueline Greenberg Vogt Spoke at the NJSBA Annual Meeting on the Panel "AI in Construction Arbitration"

As artificial intelligence continues to reshape the construction industry, the conversation around how it impacts dispute resolution is only getting bigger.

Moderated by Steven Nudelman of Greenbaum Rowe Smith & Davis LLP, Jacky joined fellow panelists Daniel R. Guadalupe of Pashman Stein Walder Hayden, Robert B. Hille of Greenbaum Rowe Smith & Davis LLP, Jennifer Millender of the American Arbitration Association, and Greg Trif of Trif & Modugno LLC to discuss how AI is influencing construction disputes, arbitration strategy, and the evolving legal landscape within the construction industry.

CONGRATULATIONS!

Excellence is built through collaboration, dedication, and a client-first approach. The 2026 Chambers USA rankings recognize that commitment.

Jacqueline Greenberg Vogt has again been recognized individually, earning a Band 1 ranking in Construction, Chambers USA's highest distinction for individual attorneys.

In addition, Mandelbaum Barrett PC's Construction Law Group has once again been ranked by Chambers USA, reflecting the group's depth of experience, collaborative approach, and commitment to delivering exceptional results for clients.

We congratulate Jacqueline and every member of our Construction Law Group on this well-deserved recognition.

Four other Mandelbaum Barrett PC practice groups were also ranked in the 2026 Chambers USA Guide: Banking & Finance, Environmental, Healthcare, and Real Estate.

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Please let us know construction regulations and “hot topics” you would like to hear about.

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Our Construction Law Insights

Our Construction Law Insights page has a number of resources to help you manage and grow your practice. Our recent articles and blogs cover tips on how to stay ahead of the industry and much more.

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