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# Infrastructure, Construction & Procurement

## Profile

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We advise all parties in the construction chain on a wide range of procurement and construction-related legal matters and during all stages of a project: from procurement and tendering issues, through design development, to construction management and resolution of disputes. Our clients are involved in all manner of infrastructure and construction projects, including transportation, healthcare, higher learning, water treatment, residential, industrial and commercial developments.

We have depth on our team - both in terms of people (partners and associates) and experience.

Our approach to disputes (if it comes to that), whether on behalf of the owner, contractor, supplier or project funder, is practical and economical, and includes advice on claims arising in the tendering and procurement process and claims for extras and delays, breach of trust, pre-judgment remedies and post-judgment collection. We tailor our advice to fit the circumstances, including the availability of builders' lien claims, bonding and other performance assurance and any particular legislative regime which may be relevant to the project in question.

## Work Highlights

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### University of British Columbia and UBC Properties Trust

- > Dozens of construction and procurements projects and assignments. We maintain a suite of construction and procurement templates for UBC and UBC Properties Trust

## University of Victoria

- > Student Housing, Science building, Social Sciences building

## Kwantlen Polytechnic University

- > Cloverdale Trades and Technology Centre, Surrey Campus expansions, Chip and Shannon Wilson School of Design, Richmond Campus Refurbishment

*Additional work highlights below*

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### Services

- > Requests for expressions of interest (RFEIs), requests for qualifications (RFQs), requests for proposals (RFPs) and tender documents
- > Advice on fairness and conflicts of interest
- > Finance issues, including structuring and direct agreements with project lenders
- > Multilateral funding agreements for publicly funded projects
- > Claims by unsuccessful bidders
- > Contracts with architects, engineers and other consultants
- > Stipulated sum contracts, design-build contracts and hybrid contracts
- > Construction management contracts, including CCDC5A and CCDC5B and CCDC17
- > Construction bonds
- > Insurance coverage
- > Claims for extras and delays
- > Lien claims
- > Insolvency
- > Public Private Partnerships (P3s)

### Co-Chairs

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## Additional Work Highlights

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UBC Okanagan

- > Multi-purpose Academic and Research Facility, Fipke Centre, Student Residences buildings, Arts & Science building, Engineering and Management Building; Design Build Project

### **Vancouver Community College**

- > King Edward Campus expansion

### **Thompson Rivers University**

- > House of Learning Library, Old Main Building Addition and Fit Out, Extension to Industrial Training and Technology Centre

### **Capilano University**

- > Various projects including Bosa Centre for Film and Animation

### **BCIT**

- > Preparation of construction and tendering documents and related consulting

### **University of the Fraser Valley**

- > Preparation of construction and tendering documents and related consulting
- > Preparing an extensive set of templates and resource materials for stipulated price contract, front-end tendering documents, construction management agreements, construction management "at risk" agreements, CCDC2 supplementary conditions, CCDC5A and CCDC5B supplementary conditions, CCDC17 supplementary conditions, project management agreements, agreements with architects and other consultants, for UBC and UBC Properties Trust
- > Advising regarding procurements processes, compliance with Capital Asset Management Framework (CAMF) Guidelines and Capital Procurement Checklist, issued by Ministry of Advanced Education and Ministry of Finance
- > Advice to numerous institutions of higher learning on acquisitions, dispositions, joint ventures, financing of projects, property trusts, relationships with student union and other matters

### **College of the Rockies**

- > Cranbrook Campus Expansion

### **University of Manitoba**

- > Engineering Innovation Centre Building, Smartpark Innovation Hub, Churchill Marine Observatory

### **Western University**

- > Various advice and consulting

### **Wilfrid Laurier University**

- > Lazaridis Hall Building (formerly Global Innovation Exchange), The Frank C. Peters Building renovation project; Brantford Campus CIBC Building refurbishment

### **Renison University College**

- > Various including Expansion Project, Resident Renovation Project

## **Waterloo Lutheran Seminary**

- > Seminary Renovation Project

## **Various health authorities**

- > Consulting and preparing construction documents and consulting regarding claims and issues on various projects

## **Airports**

- > Tendering process for civil works contract for runway expansion
- > Procurement of computer system for flight information display, baggage handling and remote kiosk check in, for acquisition / supply of computer system and related support, maintenance and service level agreement
- > Preparation of competitive tendering for selection and award, and long term lease and construction of Fairmont Hotel at YVR
- > Sea Island Connector Project, Province of BC and Vancouver Airport - lead external counsel for Vancouver Airport Authority for the joint memorandum of understanding, and then the construction (by Walter/SNC Lavalin), development and associated expropriation issues, for the Sea Island Connector Project (for bridge and roadway improvements connecting Sea Island and City of Richmond)
- > Third Runway and the International Terminal Building - counsel for Vancouver Airport Authority for initial financing for the Third Runway and the International Terminal Building. This required innovation and leadership given the new management structure and governance at a pivotal time for the Authority
- > Drafting and consulting on many construction and expansion projects at YVR
- > Drafting and consulting on many goods and services procurements at YVR
- > Counsel for Vancouver Airport Authority for development and construction of the new 700,000 sf Canada Post Pacific Processing Centre on Sea Island which opened September 2014

## **Port Authority**

- > Counsel to Prince Rupert Port Authority on various construction projects

## **Residential & Commercial Developments**

- > 71 East Pender
- > Brio
- > The Coast Coal Harbour
- > The Foothills of Burke Mountain
- > The Garage
- > Hub North Power Centre
- > Jameson East
- > Jameson House
- > Keystone
- > Kore Project
- > La Columba on Broadway
- > Millstream Village
- > Pacifica
- > Shaughnessy Mansions
- > Stella

- > Turtle Mountain
- > The Varsity

### **Litigation Claims**

- > Consultations regarding defaults and insolvency of contractors, and related lien holdback and enforcement issues affecting private sector and institutional projects
- > Handling various claims for deficiencies and non-completed work, and responding to claims for delays and extras, negotiations, settlement and resolution, and mediations, on many projects
- > Engagements for owners involving substantial claims / defending against claims for delay and extras
- > Engagements invoking bonds or taking initial steps for claims under bonds
- > Serving as sole arbitrator on a substantial construction dispute involving a municipality and a road building contractor

### **General**

- > Serve as "fair process advisor" and establish an "Evaluation Process Guide" and assist in carrying out evaluation processes and producing "fair process reports" for a number of clients (various projects)
- > Prepare template agreements for owners with architects
- > Guiding and directing procurement awards and selection processes, and consultations
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Preparation of request for proposals and procurement contract documents for acquisition / supply of computer system and related support, maintenance and service level agreement, for Enmax Power Corporation
- > Advising regarding various funding, sponsorship and construction agreements with VANOC
- > Advising clients on bonding, subguard, and alternatives to bonding
- > Acting for Home Owner warranty provider in establishing warranty program
- > Advising residential builders regarding Home Owner warranty requirements, and incorporating provisions in construction documents
- > Acting for the successful proponent for the first Design/Build/Develop Agreement awarded by the BC Transportation Finance Authority, which involved design and construction of a major highway interchange in exchange for cash and land
- > Many RFPs for procurement of goods and services, and related service agreements and other procurement contracts

### **Evergreen Line**

- > External counsel for the Province of British Columbia (Ministry of Transportation and Infrastructure) in connection with this \$1.2 billion rapid transit project

### **Canada Line Rapid Transit Project**

- > Counsel to the Vancouver Airport Authority in connection with the Canada Line rapid transit project between Vancouver, Richmond and Vancouver International Airport. We were extensively involved in the development of the corporate structure for this project

### **Britannia Mine Water Treatment Plant**

- > Advised the Ministry of Sustainable Resource Management and Partnerships BC with the development of a new acid-water treatment plant at the former Britannia Mine site. The

site was one of the worst acid rock drainage pollution sites in North America, and the proximity of the mine site to Vancouver and the urgency of implementing a solution made this a high profile initiative

### **University of the Fraser Valley**

- > This project involved the acquisition, by the University of the Fraser Valley of approximately 84 acres of land from Chilliwack Economic Partners Corporation. We provided initial advice to UFV in consultation with Partnerships BC, and now represents UFV, in consultation with the Ministry of Advanced Education

### **Sea-to-Sky Highway**

- > Retained as BC counsel to the Ministry of Transportation to assist with the proposed refinancing of Sea to Sky Highway and related issues

### **Sports and events centres**

- > Provided advice to two municipalities with respect to issues relating to their procurement of sports and events centres

### **Hospital projects**

- > BC counsel to a short-listed proponent which was invited to submit proposals to design, build, finance and operate three hospital projects in Victoria, Surrey and the Okanagan

### **Sports and medicine complex**

- > Retained by the venture in connection with a proposed long term lease and related documents for a large scale sports and medicine complex at one of BC's largest universities

### **Yukon cellular telephone service agreement**

- > This project involved the procurement and governmental support of a cell service network for 17 communities in Yukon Territory. We represented the Yukon Territory, Department of Highways and Public Works

### **Yukon Bridge at Dawson City**

- > Advised the Yukon Territory in connection with a proposed concession to design, build, operate and finance an all season bridge over the Yukon River linking Dawson City with the Top of the World Highway

### **Restructuring of Maple Ridge Town Centre Development**

- > A private developer constructed a new library, office tower, leisure centre, arts centre and municipal hall in an arrangement that involved a long term lease of the public facilities to the District of Maple Ridge. After the BC Court of Appeal ruled that the lease arrangement was invalid, the District retained us to negotiate and close the District's purchase and refinancing of the entire Town Centre Development, with the approval of the citizens of Maple Ridge

### **Restructuring of BC Ferries Services Inc.**

- > BC Ferries Corporation, the crown corporation primarily responsible for coastal ferry

service in the province, undertook a complete restructuring in 2003, ultimately selling ferry and related assets and becoming an independent, commercial organization. We acted for BC Ferry Services Inc. in connection with the restructuring, including suggesting alternatives for the restructuring, and handling the transaction itself

### **Great Northern Way Educational Joint Venture**

- > Structured and represented a consortium of the Lower Mainland's largest post-secondary institutions (UBC, SFU, BCIT and Emily Carr) in the development of the Great Northern Way Educational Joint Venture. The venture, initiated by Finning International's gift of property in Vancouver, will ultimately develop a high-tech oriented campus comprising over 3,000,000 sf as well as public areas and a proposed sky train station.

### **Athletic Centre Complex**

- > Retained by Partnerships BC in connection with the structuring of an athletic centre complex involving a joint venture between a university and a municipality

### **Discovery Parks Inc. at the University of Victoria**

- > Assisted the University of Victoria (UVic) in the development of a facility for research activities at the UVic campus. The venture is a joint initiative between UVic and Discovery Foundation, which promotes emerging research and development companies. Our involvement is primarily in assisting with long-term leasing arrangements

### **Vancouver Island Tech Park**

- > Retained to advise the University of Victoria with respect to aspects of the structure for Vancouver Island Technology Park.

### **BC Pavilion Corp. Properties leases and contracts**

- > Handled the negotiation and creation of leases of Crown-owned real estate, including the negotiation and creation of the lease of the Vancouver Trade & Convention Centre between the Government of Canada (through the Canada Place Corporation) and the Government of British Columbia (through BC Pavilion Corp.). Through representing BC Pavilion Corp., we were primarily responsible for the negotiation and creation of leases of Crown owned real estate, major event contracts for BC Place Stadium and the creation of Trade-Ex, the Abbotsford Trade and Convention Centre

### **Maple Ridge Multiple Sheet Ice Rink Project**

- > Represented the Municipality of Maple Ridge in the development of a Multiple Sheet Ice Rink Project, a venture between the Municipality and a private operator. The three sheet ice facility was a two phase project developed over the course of four years. Our involvement began with assisting the proposal solicitation process, and carried throughout the development

### **Vancouver Airport Authority, Ground Lease with Transport Canada**

- > Developing and implementing the process by which the Government of Canada managed and negotiated the devolution of the four airports. We played a leadership role in evaluating the various corporate and governance structures into which the airport could be transferred and was responsible for many components of the transaction, including negotiation of the ground lease, financing, transfers of the chattels from the Crown to the Authority, transfer of employees from the Crown to the private sector and pension matters