Introduction

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After the initial idea for this book was conceived, the book remained in the planning stages for nearly five years. At the time, sustainability in building looked to be an emerging trend. The U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED) program was gaining traction in the industry. A few jurisdictions were considering the “cutting edge” idea of mandating some level of sustainability requirements for design and construction.

Upon further discussions, the editors determined that while sustainability was creating new issues in design and construction, it was too early to publish a book on the issue. Advances in design and construction techniques and developments in regulations and legislation were evolving so quickly that any book was sure to be outdated before the ink was dry. During our period of dormancy, we witnessed the creation and adoption of the Uniform Green Construction Code; evolution of the LEED rating system; the leading edge of litigation related to certification and compliance; the release of standard industry construction forms tailored to address green buildings issues; creation of insurance products to address sustainable issues; and widespread regulation and legislation mandating some level of green building.

By 2012, we decided to move forward. It had become apparent what some skeptics referred to as a “trend” of green and sustainability was becoming law—at some level—in most jurisdictions. As an editorial team, we determined that the world of green building had evolved enough to put in the effort for this book. Green and sustainability has evolved past a trend into an integral issue of design and construction that all thoughtful construction lawyers should understand.

Green building presents unique issues associated with legislation, design and construction practices, contract drafting, insurance, and even litigation and dispute resolution. While the nuances of these issues continue to evolve, the basics and the vocabulary are established. This book offers a primer for the green construction lawyer and includes advanced tips and editorial comments on bias and motivation in certain segments of the industry.

The authors of this publication include preeminent authorities in the area of green building. Some of the authors have written and edited leading industry contract document forms for projects with a green or sustainable goal. Other authors have been instrumental in
drafting and revising legislation and regulations establishing minimum thresholds for green or sustainable design or construction. This book offers insights from those “in the know” related to the significantly “unknown” and untested issues that green design and construction presents to emerging projects.

Even after we started the writing process, the continuing evolution of the industry impacted our drafting and editing efforts. Final version of several chapters had been submitted—only for the U.S. Green Building Council to release a new version of the LEED program, LEEDv4. Those chapters were then revised to discuss LEEDv4, its requirements, and its evolution from LEED 2009. This series of revisions delayed our publication, and we thank our authors for their patience and dedication during the process.

While we recognize that this area of law will continue to evolve and develop after publication of this book, the relevance and guidance of this book in assisting a construction practitioner to identify and navigate issues in green building will remain a helpful tool.