

Attorney shares advice, questions for firms working on NYC projects, *New York Business Journal*

Erik Ortmann, KD partner and vice-chair of the KD Construction Law practice group, was featured Liz Young's Q&A *New York Business Journal* article on the COVID-19 related construction issue.

Published April 10, 2020

After most commercial building projects were shut down around New York City in an effort to slow the spread of the coronavirus, some questions may remain for the construction sites that are allowed to continue work.

Erik Ortmann is a partner and the vice chair of the construction practice at Kaufman Dolowich & Voluck LLP on Long Island. He represents clients in various parts of the construction process, from owners to contractors to suppliers, who are mostly based in the New York City area. He spoke with me about some of his clients' top questions and his own advice for companies navigating the challenges that have come up amid the coronavirus pandemic. We talked Thursday afternoon, after the state's economic development arm, Empire State Development Corp., put out new guidelines on what qualifies as essential versus non-essential construction.

Ortmann said there are three core questions firms working on construction contracts have to answer about their projects.

The first question: "A determination needs to be made whether this is a job that needs to proceed and is essential," Ortmann said.

Under an order by Gov. Andrew Cuomo, all non-essential businesses are required to have employees work from home. That included shutting down many commercial construction sites. Some projects have been deemed essential or emergency work and are allowed to proceed.

For example, one of Ortmann's clients was working on a project for a company that supplies documents that go along with pharmaceuticals. That company had been designated an essential service.

But for the company doing the construction work — related to necessary storage at the company's headquarters — there was a question of whether their project was in turn essential.

The company directed the firm to continue the work after the local town cleared the construction. Then the latest ESD guidance included language that also made it seem the work would be permitted to continue. Now the firm is checking in with the project owner again.