

## **Pre-Construction Issues: A Review**



When the Illinois Institute for Continuing Legal Education ([IICLE](#)) contacted me over [Twitter](#), I was both honored and happily surprised to find out that they wanted me to review their recent CLE text on [Pre Construction Issues](#) in construction.

I was surprised for a couple of reasons. First I am a Virginia construction attorney, and second, I am always happy and surprised to get requests like this. After getting over my original surprise and, in the interest of full disclosure, receiving a complimentary copy of the book from IICLE for my review, I got down to reading the text.

In reading the book, I realized that, while it references Illinois law, the practical nature of the various chapters makes it useful to any construction practitioner. The book is broken up into easily digestible and understandable chunks, starting with selection of the proper contract and ending with government regulations. Each chapter is “tabbed” to make this book a simple reference.

As I said before, I am a Virginia construction lawyer, so am unfamiliar with many of the legal opinions and statutes that are cited in the book. However, the principles that are stated in the various chapters apply across states (with a bit of change here and there for the vagaries of state law).

The contracts cited in the text are essentially the [AIA](#) and [ConsensusDOCS](#) forms that are widely available across the country and the risk management principles are very much universal. Practical guidance for general contractors and subcontractors alike sounds much like the advice I would give my Virginia clients. For example, try to avoid Pay when Paid clauses as a subcontractor, or make sure the owner is good for the money for which that general contractor contracts.

It also goes into the different ways to structure payment on a project from the start. This is particularly helpful to those of us who sometimes focus on the typical straight line contracting model. A bit of “outside the box” thinking can always help a client.

I enjoyed reading this book because it took a more “on the ground” practical approach to the pre-construction issues that are often overlooked in the industry. It pointed out in plain language, with citations to contract provisions and law, pitfalls and benefits to each party in the contracting chain (including lenders) in a concise manner without getting too

deeply into the esoteric areas of the law. This makes the book's guidance good for lawyers and contractors alike.

In short, this is a great book for construction practitioners in any state, and I'm sure even better in Illinois. We need more practical guidance like this in the law.

Please check out my [Construction Law Musings Blog](#) for more on Virginia construction law and other topics.