



MILLER THOMSON  
AVOCATS | LAWYERS

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# AN OVERVIEW OF MILLER THOMSON'S CONSTRUCTION LAW EXPERTISE



## CONSTRUCTION

### ABOUT MILLER THOMSON LLP

Miller Thomson is a leading full-service Canadian law firm with 11 offices located throughout Canada and more than 550 lawyers. We cover Canada better than any other national law firm, with deep roots in the communities where we work and live.

With a total of 35 partners and associates, we have one of the largest construction law practices in the country. Several members of our Construction and Infrastructure Group are recognized among the leading lawyers in Canada in this area of practice in various legal and industry publications, such as *Chambers Canada*, *Chambers Global*, *Best Lawyers in Canada*, *The Canadian Legal Expert Directory*, and *Expert's Guide to Canada's Leading Infrastructure Lawyers*.

Our extended office network and geographic presence in Canada's key economic hubs are unparalleled among other national firms. This puts us in close proximity to our clients and enables us to draw upon the expertise of our team of seasoned professionals to cater to the specific needs of our clients, whatever their size, location, legal requirements and industry sector, including a leader in real estate investment that also provides top notch retail and leasing opportunities such as RioCan Real Estate Investment Trust (RioCan).

### CONSTRUCTION EXPERTISE

When you work with Miller Thomson, you have access to lawyers who are experienced in negotiating and drafting complex construction and infrastructure agreements, as well as reviewing industry standard documents, operations and maintenance agreements, design contracts, project risk mitigation, project administration, mediation and arbitration, and litigation proceedings. Our experts can advise you on appropriate terms for alternative dispute resolution (ADR) mechanisms, including negotiations, expert or referee proceedings, mediation and arbitration. We put our collective skills to work for our clients to deliver outstanding results, focusing on your needs throughout the project.

We represent a range of clients including domestic and foreign owners, developers, lenders, contractors and suppliers through the project development process, as well as on the acquisition, divestiture and finance of projects.

Working alongside our Construction and Infrastructure Group, Miller Thomson is comprised of a team of professionals providing legal services for projects across Canada. We draw on specialized lawyers from our offices across Canada, as required, to provide clients with a multidisciplinary group of experienced legal advisors tailored to a particular project. Our Construction and Infrastructure Group lawyers are often called on to provide the following legal services:

#### CONSTRUCTION

- Industry standard form contracts, including CCDC, OAA, ACEC, BIM, AIA, and RAIC and development of supplementary conditions
- Custom contract solutions to address project-specific needs including engineering, procurement and construction (EPC) contracts
- Labour and occupational health and safety issues
- Construction financing
- Project risk management

#### INFRASTRUCTURE

- Alternative service delivery
- Public-private partnerships and alternative financing and procurement
- Project agreements
- Transaction and deal structuring
- Project financing

## OPERATIONS AND MAINTENANCE

- Advice on issues specific to operations and maintenance agreements, including risks associated with existing infrastructure under management, interfacing with client and client's other contractors and payment matters
- Development solutions for minimizing risk to an operations and maintenance provider
- Asset management
- Capital planning

## PROCUREMENT

- Procurement planning and structuring
- Legal advice throughout the procurement process right through to closing, evaluation, selection and award of the contract
- Preparation of procurement documents such as expressions of interest, requests for proposal, request for qualifications, request for quotations, and requests for information and related agreements and evaluation frameworks
- Development of standard procurement documentation for the selection of subcontractors
- Procurement risk management

## LITIGATION AND DISPUTE RESOLUTION INCLUDING MEDIATION AND ARBITRATION

- Disputes over major and complex infrastructure projects, including public-private partnerships
- Loss of profit claims alleged by contractors who were not awarded a contract following a bid process
- Litigation arising out of construction defects and deficiencies, additional and impact costs, extras, delays and construction liens
- Professional liability involving architects, engineers as well as directors and officers
- Professional negligence
- Contract disputes and claims
- Warranty claims
- Insurance claims
- Damage claims

## MORE THAN JUST LEGAL ADVICE

Miller Thomson's philosophy includes providing value-added services beyond the legal advice for which our clients have engaged us. We want you to be well supported on an ongoing basis, even when you aren't currently working on a project with our legal team.

Our value-added services include keeping you informed about changes in legislation and providing expert analysis of the results of recent court cases that may have an impact on your business. This proactive approach gives you the opportunity to stay ahead of the curve when it comes to planning future projects.

Members of our construction team also frequently present educational seminars that provide tailored advice to industry experts. We will even bring these educational opportunities to you, offering in-house, personalized presentations for our clients. These presentations deal with all facets of construction law, from procurement rules to practical day-to-day considerations and pitfalls. Your in-house department or business unit leadership group can benefit from our firm's expertise with a convenient event at your company's own premises.

## BREAKING GROUND

The construction industry is constantly evolving, and you need to be able to catch up on the latest news when it's convenient for you. Miller Thomson's construction industry blog, **Breaking Ground: MT Construction Law**, is an easy way to stay on top of new developments.

Our legal experts provide thought leadership and offer opinions on current cases, federal and provincial legislation and events affecting the construction industry. Providing this valuable insight is just one more way that Miller Thomson supports clients and maintains a strong relationship even when you don't have time to spend with us face-to-face.

## EXTENSION OF IN-HOUSE LEGAL DEPARTMENTS

In addition to representing our clients in a variety of matters as external legal counsel, we regularly assist them with their “day to day” operations. We can be a value-added asset to RioCan's in-house legal department by providing cost-effective, responsive, quick, transparent and efficient advice which you can rightfully expect from a leading national law firm. In fact, at your request, we will act as an engaged resource and make ourselves available to supplement and support your in-house legal department.

## LEGAL PROJECT MANAGEMENT

Miller Thomson is at the forefront of utilizing legal project management (LPM) and alternative, flexible, creative and customized fee arrangements with clients, including customized reporting and budgeting protocols. LPM enables us to provide our clients with the highest quality legal work product, transparency and accountability while significantly improving predictability as well as cost and risk management. We fully understand and appreciate the operational and fiscal constraints under which RioCan must work, and recognize that minimizing legal costs is important. We are best positioned to work with you given our collaborative and customized approach to project management and value pricing.

As a Miller Thomson client, you will receive ongoing support, educational opportunities and, of course, top quality legal services.

## KEY CONTACTS



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