

CONSTRUCTION BLOG

Do you hear that buzzing or is it just me? How use of drones is changing construction management forever.

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The efficiency objectives of construction management may not be changing, but the tools it utilizes just might be. Driven by use on construction projects, the FAA has recently proposed new rules for the operation of drones (e.g. “Unmanned Aerial Vehicles”) that would permit operation on construction sites so long as visual line of sight is maintained by the pilot. Prior to this proposed rule change, the FAA Modernization and Reform Act of 2012 required a pilot licensure, approval and certification, making use on construction projects expensive and impractical. If the proposed rule is passed, contractors will be able to legally utilize drones on construction projects to perform such tasks as surveying, site layout, design, BIM, project management, and project completion analysis.

Use of drones on construction sites is, of course, not without legal risk. The FAA recently proposed a \$1.9 million civil penalty against a Chicago-based aerial photography company for violating airspace regulations and operating rules. In the event of a crash, liability could potentially extend to operators as well as up and downstream contractors. Legal analysis is needed to determine if drone operation is covered by a contractor’s CGL insurance policy, but many policies contain exclusions with respect to “ownership, maintenance, use or entrustment of others of aircraft” that could place such liability outside the scope of coverage. State and federal privacy laws also impact both the operation of drones on a project site as well as storage of the information and photographs obtained during use.

But the existence of unresolved legal issues has not stopped construction industry participants from charging forward. Construction Industry Forum STL recently reported that Clayco Construction has obtained drone use exemptions intended to permit its use of drones for construction management services. Not to be left behind, the insurance industry has begun utilizing drones to inspect building exteriors and roofs without heavy ladders and risky roof climbs. Agriculture has also followed suit, using drones to monitor crops, locate and assess livestock, and spray fields. Construction project owners are even utilizing drones to monitor job sites to prevent casualties and to prepare and remove additions to control job costs.

While the full legal implications drone usage on construction sites has not been determined, contractors should address the surrounding rights and responsibilities directly through clearly drafted contract provisions. Given this valuable emerging technology, failing to contractually account for the use of drones by contractors and downstream subcontractors could mean that the only one left behind...is you.

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