

## **E09 Physical Security in the Design and Construction of High-Risk Construction Projects**

**Michael R. Gordon, Manatt, Phelps & Phillips**

**John Friedlander, Kroll**

**Michael Zicherman, Peckar & Abramson, P.C.**

1. Introduction and overview
  - a. Subject of discussion
    - i. Litigation is about dispute resolution; when disputes involve choices affecting the safety of life and property, physical and digital, the stakes could not be higher.
    - ii. In today's dangerous world, the threat of physical attacks on civilian populations, buildings, infrastructure, and digital networks is very real.
    - iii. Addressing those risks requires making choices on security screening, building material selection, the design of facilities and infrastructure, construction tolerances, and the safety and integrity of digital networks. These choices can and often do butt up against due process and equal rights concerns, regulatory requirements, contract interpretation, and insurance and suretyship implications.
    - iv. This program will explore the issues that litigators face when resolving disputes that arise from the intersection between security requirements and the jurisprudence of civil and property-based rights.
  - b. Panelist backgrounds
    - i. Michael Gordon
    - ii. John Friedlander
    - iii. Michael Zicherman
2. Areas of design and construction concern: design and construction issues for facilities that require heightened security measures
  - a. Facilities at issue
    - i. Buildings – commercial, residential and multi-use
    - ii. Infrastructure and plants

1. Transportation
  2. Energy facilities
  3. Other plant facilities
- b. Design consideration issues
- i. Security issues at the key phases of the design process
    1. Schematic
    2. Design
    3. Bid Review
    4. Construction Administration
    5. Quality Assurance
  - ii. Risk assessment
  - iii. Building Materials, with focus on:
    1. Foundation
    2. Concrete
    3. Steel frame and decking
  - iv. Access, entrance and egress
  - v. Blast prevention and containment
  - vi. Site considerations, LEED, and aesthetics
  - vii. Building envelope and structural integrity
  - viii. Systems: mechanical, electrical, fire protection, security
- c. Emerging Technologies
- i. Active Shooter Detection
  - ii. Biometric Advances

- d. Construction means and methods issues
  - i. Meeting high tolerance requirements
  - ii. Staging and scheduling
  - iii. Coordination issues
- e. Fraud Detection and Prevention
- f. Physical Security
  - i. Assessments: Physical, Threat, Vulnerability
  - ii. Operational, Technical & Architectural Elements
  - iii. Security Design & Engineering
- 3. Security Planning
  - a. Security Operations & Management
  - b. Electronic Security Systems
    - i. Access Control & Alarm Management
    - ii. Video Surveillance
  - c. Threat Management
- 4. Legal issues – compliance in a high security environment
  - a. Regulatory compliance
    - i. Design and construction requirements
      - 1. Federal
      - 2. Sampling of state regulations and major trends
    - ii. Hiring practices (vetting to ensure a secure workforce)
  - b. High tolerance and high security construction contract compliance
  - c. Civil rights and privacy laws compliance

- i. Tension between privacy and security
  - ii. Scope of privacy laws
  - iii. Limits of privacy laws
  - iv. Private rights of action regarding privacy
    - v. Issues
      - 1. Surveillance cameras during construction
      - 2. Searching workers' clothing and bags
  - d. Insurance coverage and suretyship issues
5. Strategies for meeting legal compliance obligations