

Facilities Use and Campus Access: Protocols for Third Party Users, Vendors, and Contractors

September 11th, 2020

Matthew J. Gardner
mgardner@robbins-schwartz.com

Jessica L. Knox
jknox@robbins-schwartz.com

Chicago
55 West Monroe Street, Suite 800
Chicago, IL 60603
p 312.332.7760
f 312.332.7768

Champaign-Urbana
301 North Neil Street, Suite 400
Champaign, IL 61820
p 217.363.3040
f 217.356.3548

Collinsville
510 Regency Centre
Collinsville, IL 62234
p 618.343.3540
f 618.343.3546

Bolingbrook
631 East Boughton Road, Suite 200
Bolingbrook, IL 60440
p 630.929.3639
f 630.783.3231

Rockford
2990 North Perryville Road, Suite 4144B
Rockford, IL 61107
p 815.390.7090

Facilities Use and Campus Access: Protocols for Third Party Users, Vendors, and Contractors

Webinar presented by Matthew J. Gardner and Jessica L. Knox

Robbins Schwartz

1

Introduction

Risks and Challenges of Third-Party Use

How to Manage these Risks

- Limit third-party facility use and access
- Contractual protection
- Screening and mitigation strategies



Robbins Schwartz

2

Risks and Challenges

Risks and Challenges of Third-Parties on Campus

- Lack of control/supervision (or at least more people to control/supervise)
- Different interpretation of IDPH/CDC guidelines
- Increased transmission possibilities
- Potential liability

Robbins Schwartz

3

Limiting Third-Party Use and Access to College Facilities

ICCB Guidance: When are Campus Visitors Allowed?

- Phase 3 – Colleges should limit visitors
- Phase 4 – Visitors permitted following CDC and IDPH guidelines
 - Gatherings limited to 50 persons
- Athletics and Spectators:
 - Outdoor sports events
 - Indoor sports events

Robbins Schwartz

4

Limiting Third-Party Use and Access to College Facilities

Considerations for Granting Use of or Access to College Facilities:

- Is the proposed use in the college's interest? Is there any financial impact?
- Is there an existing contractual right to use the facilities?
- What is the risk of exposure?
- Can the frequency, duration, and scope of the proposed or existing use be limited to reduce exposure?
- Are there contractual protections in place to protect the college?



Robbins Schwartz

5

Limiting Third-Party Use and Access to College Facilities

Frequent College Facility Users: Specific Risks and Considerations

- Community groups
- Vendors (food service, bookstores, etc.)
- Contractors

Robbins Schwartz

6

Contractual Protection: Terms to Review

- Termination / Suspension
- Insurance
- Indemnification
- IDPH/CDC guideline and college policy compliance
- Control – vendor/contractor responsible for employee/invitee compliance

Robbins Schwartz

7

Screening and Mitigation Strategies

COVID-19 Screenings

Health Screenings : What is Required?

- Automated or self-monitoring screening
- Building notices at entrances

Screening for:

- Current symptoms of COVID-19
- Within the last 10 days, no positive test or suspicion of COVID-19
- Within the last 14 days, no "close contact" with someone who tested positive or is suspected of having COVID-19
- Within the last 14 days, no member of household had "close contact" with someone who tested positive of COVID-19, and is not experiencing symptoms of COVID-19 or has not tested positive for COVID-19
- Within the last 14 days, no international travel



Robbins Schwartz

8

Screening and Mitigation Strategies

Individuals with Positive Tests or Displaying Symptoms

Recommendations for Visitors with Positive COVID-19 Test or Symptoms

- Procedure for notifying the college of symptoms or positive test
- Quarantine and isolation measures
- Cleaning and disinfection requirements

Robbins Schwartz

9

Screening and Mitigation Strategies

Mitigation

- Social distancing
 - Use signage, tape, and other signage and physical objects to ensure six-foot social distancing
 - Limit gatherings to 50 persons
- Cleaning and disinfection as outlined by CDC and IDPH
- Face coverings, PPE, and hand sanitizer
- Enforcement: How to make sure that any third-parties comply with IDPH/CDC guidelines and College policies?

Robbins Schwartz

10

Hypothetical No. 1

- A contractor has been working at a College facility installing a new HVAC system. One of the contractor's employees informs the project manager that he has a cough, fever, and shortness of breath.



Robbins Schwartz

11

Hypothetical No. 1

- When can the contractor's employee return to the College's project?
 - Is tested and results come back positive?
 - Is tested and results come back negative?
 - Is not tested, but symptoms subside?

Robbins Schwartz

12

Hypothetical
No. 1(a)

- What if the three other employees of the contractors had been working in a furnace room with the sick employee? Can they return to work at the College?

Robbins Schwartz

13

Hypothetical
No. 1(b)

- If the contractor does not have the manpower to complete the project, is the contractor excused from performance?



Robbins Schwartz

14

Hypothetical No. 2

- A third party has rented the parking lot of the College to host a small socially distant fair after regular operating hours. A College employee walks by the fair and finds that most persons are not wearing face coverings, a large crowd has gathered, and no one is social distancing.

Robbins Schwartz

15

Hypothetical No. 2

- What contract language should the College look for, and how does it affect the College's responsibility and course of action?



Robbins Schwartz

16

Hypothetical
No. 2(a)

- If the third-party's fair was held in an indoor athletic gymnasium, would the answer change?

Robbins Schwartz

17

Questions?



Robbins Schwartz

18

Robbins Schwartz

MATTHEW J. GARDNER

PARTNER, CHICAGO

312.332.7760

mgardner@robbins-schwartz.com

Matthew Gardner is a member of the firm's construction, real estate, and public finance practice groups. Matt represents private and public project owners over the course of construction and development projects, beginning with property acquisition, zoning, contract negotiation and bidding, project management, surety and warranty claims and any resulting litigation concerning payment, delays or design or construction defects. Matt also represents contractors, subcontractors and suppliers on a variety of construction-related matters, including payment claims, preserving and enforcing lien rights and defending defect claims.

Matt is the past Chair of the Chicago Bar Association Construction Law and Mechanics Lien Subcommittee (2018-19), has testified before the General Assembly on construction-related matters, and is a member of the Illinois State Bar Association and Chicago Bar Association Judicial Evaluation Committee. Matt has also performed pro bono services representing clients through Chicago Volunteer Legal Services and Franciscan Outreach.

RECENT PUBLICATIONS

Co-author, "School Construction from Start to Finish: A Project Checklist," *School Business Affairs Magazine*, ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions," *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Meditation a Win-Win for Clients and their Attorneys in Construction Litigation," *Chicago Daily Law Bulletin* (2018)

Contributing author, "Organization, Finance, and Property," *Illinois School Law*, IICLE (2017)

"The Good, The Bad and The Ugly of School Bidding Requirements," *UPDATE Magazine*, Illinois ASBO (2016)

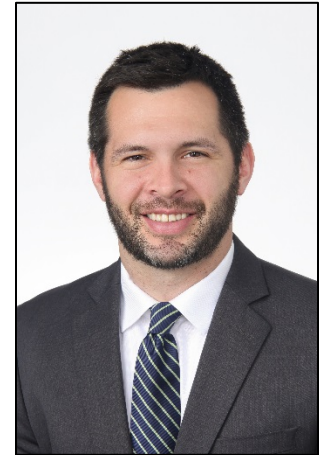
"School District and Zoning Exemptions," *Chicago Daily Law Bulletin* (2015)

RECENT PRESENTATIONS

Construction Law 101, National Business Institute (December 2019)

Foolproof Contract that Abide by State Laws, 2019 Illinois ASBO Annual Conference (May 2019)

Construction Purchasing & Bidding Common Problems & Solutions, Illinois ASBO (March 2019)



PRACTICE AREAS

Commercial Law
Construction Law
Public Finance & Taxation
Real Estate Development

EDUCATION

J.D., University of
Wisconsin Law School

B.S., University of Utah

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

Supreme Court of Utah

Supreme Court of
Wisconsin

ORGANIZATIONS

Chicago Bar Association

Illinois State Bar
Association

Construction Contracts: Boilerplate Language Landmines You May Not Know, ,
National Business Institute (February 2019)

*The Anatomy of a Mechanics Lien Claim: Preparing, Serving and Filing Notices
and Claims,* Illinois State Bar Association Continuing Legal Education (May
2018)

Lead Testing Update: Everything You Need to Know, Illinois ASBO Conference
(May 2018)

Community College Funds – Lawful Expenditures and Practical Considerations,
Spring ICCCFD Conference (April 2018)

Robbins Schwartz

JESSICA L. KNOX

ASSOCIATE, CHICAGO

312.332.7760

jknox@robbins-schwartz.com

Jessica practices in the firm's commercial, construction, real estate, public finance, and taxation practice groups. Jessica represents clients such as townships, school districts, community colleges, and private entities in real property taxation and assessment appeals. She also represents clients in the areas of commercial transactions and construction law, including drafting and negotiating contracts, litigation, and alternative dispute resolution.

Prior to joining Robbins Schwartz, Jessica's practice involved representing clients on commercial and residential real estate transactions, leases, employment contracts, and residential tax appeals. Jessica also previously represented lenders in residential foreclosures in both Washington State and Illinois.

RECENT PUBLICATIONS

Contributing author, "Public Body Social Media Rules Make Retention, Ready Retrieval Imperative," *Chicago Daily Law Bulletin* (2019)

Contributing author, "How Far Does the Law Allow Schools to Go?" *UPDATE Magazine*, Illinois ASBO (2018)

RECENT PRESENTATIONS

Property Tax Assessment Challenges and How to Defend Your Tax Base, PMA Financial Network, LLC (June 2020)

Construction Law 101, NBI (December 2019)



PRACTICE AREAS

Commercial Law
Construction Law
Property Tax &
Revenue Preservation
Real Estate Development

EDUCATION

J.D., *cum laude*, Florida
Coastal School of Law

B.A., University of
Minnesota

ADMITTED TO PRACTICE

U.S. District Court for the
Eastern District of
Washington

U.S. District Court for the
Western District of
Washington

Supreme Court of Illinois