

KAILEY SUTTON

Categories: [People](#), [Lawyers](#)

Kailey Sutton maintains a growing practice focused on municipal law, land use planning, construction and development. She represents and advises the full range of stakeholders in construction and infrastructure, including owners, developers, ratepayers, municipalities, contractors and consultants.

Experienced in obtaining front-end approvals and permitting for development and construction, Kailey assists her clients on various forms of approvals, including official plan amendments, rezonings, severances, minor variances, plans of subdivision and site plan approvals. She also provides advice on expropriation proceedings, *Ontario Heritage Act* and Building Code matters, as well as by-law and regulatory compliance issues. Kailey frequently appears and makes submissions before municipal councils and committees of adjustment, the Local Planning Appeal Tribunal (formerly the Ontario Municipal Board), the Toronto Local Appeal Body, and Provincial Offences Court.

Kailey's experience includes drafting and negotiating complex construction and development agreements, including custom-drafted and standard form construction contracts; master supply agreements; operation and maintenance agreements; teaming agreements; crane swing, tie-back and shoring agreements; and section 37 agreements. She has acted on matters relating to real estate portfolio acquisitions, low- and high-rise residential and condominium developments, university and hospital developments, industrial facilities, public-private partnership (P3) infrastructure, renewable energy projects and art installations.

As a former insurance broker and adjuster, Kailey offers significant expertise in risk management and allocation, mediation, negotiation and settlement.

Kailey is a member of the Urban Land Institute's Program Committee and the Building Industry and Land Development Organization, and a frequent author and panellist on development and construction law matters.

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Expertise: Construction & Infrastructure, Municipal, Land Use Planning & Development

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Location: Toronto

Phone: 416.945.8008

Position/Title: Associate, Construction & Infrastructure | Municipal, Land Use Planning & Development

Directorships & Affiliations:

- Canadian Bar Association
- Ontario Bar Association – Construction and Infrastructure Law Section
- Ontario Bar Association – Municipal Law Section
- Building Industry and Land Development Association (BILD)
- Urban Land Institute (ULI), Toronto Chapter, Program Committee
- Women's Infrastructure Network

Publications:

- "[Am I covered? The Supply of Project and Construction Management and other Consulting Services under Ontario's Construction Act](#)," Construction Law Letter, Vol 36, No. 5, pp 4-7 (May 2020)
- "[A Recipe for Good Governance](#)," Ivey Business Journal (September 2017)

Education & Admissions:

Degree: Called to the Ontario bar

Year: 2017

Degree: JD

University: University of Toronto

Year: 2016

Degree: MA, Criminology

University: University of Toronto

Year: 2012

Speaking Engagements:

- Responses to Select Questions from the "The Impact of COVID- 19 on the Construction Industry: McMillan Answers Your Questions" Webinar

- April 3, 2020

- Webinar: The Impact of COVID-19 on the Construction Industry: McMillan Answers Your Questions

- March 31, 2020

Representative Matters: Construction Matters:

- Drafted & negotiated numerous construction contracts and provided advice pursuant to numerous construction contracts for new and existing clients including: Institutional and other owner clients, developers, engineers and architects, contractors, and trades
- Assisted in the preparation of template construction contracts, including CCDC 5B contracts, for use by large Canadian Bank on their Canadian projects
- Advised designer on Design Services Consulting Agreement in respect of P3 courthouse construction project
- Assisted in drafting and negotiating Design Services Agreement between joint venture and designer in respect of P3 transportation infrastructure project as part of successful bid package
- Advised service provider on drafting and negotiation of Services Agreement for Water Treatment Facility
- Advised large residential developer on Environmental Assessment Consultant Agreement and assisted in negotiation with consultant in satisfaction of municipal requirement
- Prepared Master Services Agreement and related Professional Services Agreement for large residential developer for use in relation to project with ongoing service obligations
- Advised owner-client on drafting and negotiation of Access Road, Crane Swing and Shoring Agreement against developer-neighbour with respect to development of long-term care facility
- Advised large industrial manufacturing owner-client on drafting and negotiation of various construction management agreements, draft template contract agreements and supplementary conditions, respecting renovation and construction of various industrial premises;
- Advised large residential owner-client on drafting and negotiation of Services Agreement for installation and dismantling of large temporary art exhibit; drafting event contract for use of same exhibit
- Assisted in drafting joint venture agreement respecting development of education centre located internationally
- Provided engineering firm claimant-client with discreet advice respecting navigating the adjudication process under the *Construction Act*, through which they ultimately secured a decision entitling payment in full plus interest

Municipal & Land Use Planning Matters:

- Assist in representing and advising various owners with respect to various appeals of city-initiated official plan and zoning by-law amendments, including appeals in respect of:
 - City of Toronto Official Plan Amendment No. 231 re: Employment Areas Lands;
 - City of Toronto Official Plan Amendment No. 352 re: Tall Buildings Guideline;
 - City of Toronto City-Wide Comprehensive Zoning By-law No. 569-2013;
 - City of Toronto By-law No. 1111-2017 re: King-Spadina Heritage Conservation District;
 - City of Toronto Official Plan Amendment No. 406 re: Downtown Secondary Plan;
 - City of Toronto Official Plan Amendment No. 486 re: King-Spadina Secondary Plan;
 - City of Mississauga Official Plan;
 - City of Vaughan Official Plan (2010);
 - City of Vaughan Official Plan Amendment re: Yonge Steeles Corridor Secondary Plan;
 - City of Vaughan Official Plan Amendment re: Vaughan Mills Corridor Secondary Plan;
- Advise clients with respect to zoning by-law and sign by-law requirements and compliance therewith, including, for example:
 - Conduct zoning by-law analyses for acquisition of large portfolio of properties located in the City of Ottawa;
 - Conduct zoning by-law analysis for various financial institutions respecting the opening of new branch locations;
- Assist in representing and advising various individual and developer clients in respect of applications for site-specific planning permissions, including:
 - Successfully assisting with representing various owner-clients in respect of applications for minor variance and severance at the Toronto Local Appeal Body; official plan amendments, and rezonings;
 - Successful opposition on behalf of large owner-client of appeal of approval of Zoning By-law Amendment, and successfully negotiate settlement of appeal of site plan approval;
 - Successfully represent owner-client in respect of motion to dismiss appeal by neighbour on the grounds of no valid land use planning issue raised;
- Advise clients with respect to various issues relating to land-use entitlements, including with respect to easements and rights of way,
- Advise clients with respect to TRCA matters including TRCA use permissions, permits and conveyances
- Represent various owner- and tenant-clients with respect to responding to and resolving notices of violation in respect of zoning and building code matters, including negotiation of resolutions, settlements, and attending Provincial Offences Court
- Represent various owner-clients in respect of applications for minor variance and severances, including

with respect to:

- Obtaining reciprocal easements in respect of new developments on behalf of large developer owner-client and neighbour-developer;
- Obtaining severance (lot addition) on behalf of large industrial facility purchaser and easement over severed land benefitting vendor;
- Advise neighbour-clients on opposition and appeal rights in respect of land use applications by neighbour-owners;

Expropriation Matters:

- Assist in representing and advising owners and tenants with respect to various expropriation matters, including, for example:
 - Advise large commercial property owner on valuation dispute respecting taking by Metrolinx for development of additional LRT infrastructure;
 - Represent large commercial property owner in respect of dispute re: necessity of taking;
 - Represent large commercial tenant in respect of negotiating entitlement to share in compensation as against fee simple owner;

Other Matters:

- Advise international vendor in respect of changes to regulatory regime in Ontario
- Represent owner-client in negotiation with neighbouring developer respecting land conveyances involving complex title; review, revise and negotiate co-operation agreements with neighbouring developer; advise owner-client with respect to fulfillment of obligations to City under Section 37 Agreement and other development agreements; review, revise and negotiate reciprocal easement agreement with City
- Advise large commercial purchaser-client on multi-million dollar purchase of stratified freehold commercial space in the City of Toronto with respect to: zoning by-law compliance, sign by-law compliance, review of development agreements respecting ongoing obligations
- Advise large commercial purchaser-client with respect to delay claim in respect of major mixed-use development in the City of Toronto in the context of labour strike, stop work orders, and pandemic-related delays, with delay damages in the millions of dollars
- Represent and advise client with respect to rights and permissions respecting air park use, access road allowances

Teaching Engagements:

- Adjunct Professor, ADZ School of Construction Management, George Brown College – **Construction Contract Law Course**

Industries: Construction & Infrastructure

Practices: Municipal, Land Use Planning & Development