

PUBLICATION

LEED Rating Pops Up In Construction Dispute

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The LEED rating system for green buildings made a brief cameo in a recent reported opinion arising out of a construction dispute in North Carolina. The recently decided case *John Wm. Brown Co. v. State Employees' Credit Union*, 752 S.E.2d 185 (N.C. Ct. App. 2013) only indirectly involved LEED, it does illustrate one of the ways in which LEED disputes may arise in a construction project.

The opinion primarily concerns whether a settlement reached between the owner and the contractor's surety was enforceable over the contractor's objections.

As justification for its position, the owner argued it had already treated the contractor "above and beyond being fair . . . by not seeking to back charge [the contractor] for extra work required for LEED certification." *Id.* at 186.

Unfortunately, there is no other information about the nature or amount of this alleged extra work for LEED certification, or why it was necessary. The fact that it was apparently paid for by the owner despite what must have been a rocky relationship with the contractor suggests that it may have been a design issue for which the owner accepted responsibility.

We'll never know from the opinion itself, but it does serve as a reminder that green building disputes may often have the same look and feel as conventional building disputes.

If you have questions regarding LEED ratings or green construction disputes contact [Kevin Garrison](#) or any of the members of Baker Donelson's [construction practice group](#).