



## Does Stricter Decertification Mean More "Leedigation?"



Recently, my friend and fellow construction attorney/consultant, Chris Cheatham (@chrischeatham) posted the news that [USGBC will be more stringent on the de-certification front](#). This statement relates to the continued energy performance of LEED certified buildings and increases the likelihood that energy performance (as opposed to mere reporting) could lead to de-certification.

I have discussed on several occasions the [potential legal risks relating to green building](#). One of the big potential sources for such litigation (or "leedigation" as coined by Mr. Cheatham) is the possible de-certification of a previously certified building. With this latest statement by USGBC the specter of such de-certification seems even stronger.

Couple this potential with the fact that [anyone can challenge the certification of a building at any time](#) and contractors, subcontractors and other construction professionals face potential liability for the performance of a building in ways well beyond their control.

While this risk is a real one in my opinion, careful planning and the consultation with a [construction lawyer familiar with the LEED certification system](#) can help construction professionals minimize this risk.

On another note, [Scott Wolfe](#) and I will be discussing these risks and solutions in more detail next week at the [Green Legal Matters](#) conference in [New Orleans](#).

*Please check out my [Construction Law Musings Blog](#) for more on Virginia construction law and other topics.*