



## DAVID R. MULLANEY, ESQ.

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### EXPERT WITNESS CONSTRUCTION & CONSTRUCTION DEFECTS

#### EDUCATION & TRAINING

##### Juris Doctor

Massachusetts School of Law

##### Bachelor of Business Administration

University of Massachusetts

##### Construction & Civil Engineering Studies

Wentworth Institute

##### Trained Mediator

MWI, Boston, MA

#### CORE EXPERTISE

- Construction Defects
- Slips/ Trips/ Falls
- Contracts
- Risk Management
- Dispute Resolution
- Construction

#### PORTFOLIO OF PROJECTS

##### Residential

Residence Halls and Dormitories,  
Independent Living Facilities,

##### Education

Campus Centers, Academic Buildings,  
Independent Academies, Conservation  
Centers

##### Renovations & Conversions

College Building Renovation and  
Addition, Libraries, Country Clubs,  
Updating Historic Buildings

##### The Arts & Entertainment

Performing Arts Centers, Theatres

##### Retail & Food

Dining Commons, Large Marketplaces

##### Health & Wellness

Athletic Centers, Senior  
Living Communities and Facilities

#### PROFESSIONAL EXCELLENCE

- Attorney providing counsel leveraged with considerable business acumen coupled with extensive experience in collaboration with project partnerships between all lenders, stakeholders, prime and subcontractors, design consultants, and AEC sectors.
- Effective communicator with all levels of business associates, including stakeholders and executives. Trained mediator dedicated to collaborating and working independently to attain closure on issues.
- Highly skilled negotiator and contracts specialist with expertise in deal structuring, deal preservation, and drafting complex and other transactions, with emphasis on review, negotiation and formation of contracts and other legally binding documentation, while managing risk by allocation and curtailment.
- Common assignments are legal review, negotiating and crafting contracts, defining avoidable and transferable risk, gauging and alleviating risk, likely causes and consequence(s) of breach, and resolution and disposition of claims.
- A trusted business advisor, adept in legal, operational, and investment advisement for multiple sectors throughout the past two decades.
- Possess unique skill sets to effectively decipher and execute complex transactions related to long-term strategic planning and execution of adaptable business strategies in the event of upward or downward market shifts and trends.

## LEGAL MATTERS THAT CAN BENEFIT FROM MULLANEY'S INVOLVEMENT AS AN EXPERT WITNESS OR CONSULTANT

- ✓ Breach of Contract
- ✓ Construction Defects
- ✓ Claims Resolution
- ✓ Determining Parties Responsible for Delays, Formulating Achievable Plans to Attain Completion
- ✓ Dispute Resolution-Direct & through Mediation
- ✓ Faulty Workmanship
- ✓ Failure to Maintain the Integrity of the Work In Progress
- ✓ Failure to Tender Payment Due and Owing for Work Performed
- ✓ Fiduciary Obligations
- ✓ Fraudulent Claims for Insurance Coverage of Fire Damages
- ✓ Labor Union Disputes & Agreements to ensure prosecution of the work
- ✓ Negligence by Constructors- Construction Managers & General Contractors
- ✓ Negligence by Architects and Consulting Engineers
- ✓ Responsibility & Compliance
- ✓ Roofing Failure & Related Damages
- ✓ Schedule Determination all trades
- ✓ Schedule Delay Resolution

## PROFESSIONAL SUMMARY

*Drawing from his construction law practice over the past six years and 25 years of experience as a highly successful licensed vertical building constructor and former long time CEO of his low to mid rise vertical construction firm Mullaney Corporation, David Mullaney possesses in depth knowledge of all phases of building construction from substructures to superstructures to envelopes and finishes.*

*Mullaney has extensive knowledge of pertinent and interrelated subjects as operations, schedule, critical path tasks and the resulting schedule requirements when delays are encountered, which he has successfully applied on numerous projects as both a construction attorney and construction executive. In particular, the numerous preparatory school and private college buildings built by Mullaney were subject to non-fluid August and December hard completion dates, in order to give clients sufficient time to commission buildings after substantial construction completion and prior to student occupancy in January and September. Accordingly, schedule slippage was not an option and Mullaney never failed to deliver its buildings on time, notwithstanding material delivery delays and shortages.*

## PROFESSIONAL EXPERIENCE

### Attorney At Law

2017 – Present

David R Mullaney, Esq. | Waltham, MA

- Providing counsel to small and large businesses in construction related contracts, disputes and breach of contracts. Structuring deals to purchase, employ, subcontract or partner with vendor and individual entities.

### Business Advisor

2013 – 2016

MULLANEY & CO. ADVISORS | Leominster, MA

- Provided consultancy for the architectural, engineering, and construction (AEC) sectors; assisted with financing securement, obtained municipal approvals, drafted related contracts between owners, sub-consultants, and prime contractors, determined competing party's deal rationales and predispositions.
- Orchestrated resolution of disagreements as to cost, schedule and performance resulting in the aggregate curtailment of risk.
- Advised on profit triggers, profit/fee preservation, identifying and capitalizing on compensables, and increasing profit.

### Managing Member & Trustee

1998 – 2011

511 LANCASTER STREET LLC | Leominster, MA

- As LLC Managing Member, acquired and redeveloped the 15-acre former Borden Chemical Complex, a Superfund and Massachusetts Brownfield site, after negotiating a Covenant Not to Sue with the state of Massachusetts.

- Reconstructed multiple existing industrial buildings; leased all buildings to capacity, managed all buildings and tenancies, and repositioned asset.
- Secured mixed-use rezoning in 2009, repositioning the asset again, leading to the favorable sale of the property in 2011.

**Chief Executive Officer (CEO)****1986 – 2010****MULLANEY CORPORATION – VERTICAL BUILDING CONSTRUCTORS | Leominster, MA**

- Founder, CEO of prominent merit shop vertical construction firm that primarily served the institutional, multi-unit housing, and medical sectors. Significant presence in the preparatory school and private college markets.
- Performed numerous repeat assignments for many clients, leveraging the firm's long standing and enviable reputation.
- Enjoyed year-over-year growth in volume, bonding capacity, profitability, and credit facility.
- Secured all contracts on a negotiated basis.
- Drafted and papered all deals under At-Risk GMP agreements.
- Regularly constructed between 10 and 12 major low to mid rise building projects each year, many with multi-level underground parking garages and largely for repeat client base.
- Sampling of projects: performing arts centers, athletic complexes, academic buildings, numerous dormitories, medical office buildings, and nursing home and hospital additions. 150 million<sup>1</sup> dollar annual volume.
- Performance awards: American Institute of Architects Boston and New York Chapters, Boston Builders Association, and American Schools and Universities.

**PROFESSIONAL APPOINTMENTS, MEMBERSHIPS, AND AWARDS**Member, **ABA Fidelity and Surety Law Committee** (2018 – Present)Member, **Massachusetts Bar Association** (2018 – Present)Member, **American Bar Association** (2017 – Present)Member, **ABA Forum on Construction Law** (2017 – Present)Member, **Boston Bar Association** (2016 – Present)Chairman, **North Central Massachusetts Chamber of Commerce** (1999 – 2000)Recipient, **Honor Award**, AIA New England (2005)Recipient, **President's Medal**, Royal Institute of British Architects (RIBA) (2004)Recipient, **Sam Walton Business Leader of the Year Award**, Worcester County (2004)Recipient, **AIA Award of Merit**, AIA New York State, Inc. (2001)Recipient, **PRISM Award**, Silver Builders Association of Greater Boston – Best Adult Community (2001)Recipient, **AIA Honor Award**, AIA Boston, Massachusetts (1998)**Recognized for Exceptional Performance**, Chan Shun Foundation (1995)

Performance awards: American Institute of Architects Boston and New York Chapters, Boston Builders Association, and American Schools and Universities.

**COMMUNITY / PRO BONO SERVICE**

- **Supporter**, Friedreich's Ataxia Research Alliance (2012 – 2018)
- **Member**, Fitchburg State University Board of Trustees (2002 – 2012)
- **Director**, Julie Country Day School (2002 – 2006)

**COMPLETED PROFESSIONAL PROJECTS****Orchard Hill Marketplace**, Lisciotti Development Corp. | Leominster, MA (2006)

- New 80K GSF retail building consisting of 53K GSF shell and tenant fit-up for a Dick's Sporting Goods prototype and 27K GSF shell and fit-up for a Bed Bath & Beyond prototype.

**Lasell Village Building N17 Independent Living Facility**, Lasell College | Newton, MA (2006)

- Constructed new 5-story, 17-unit adult living facility with two level underground parking garage and connector tunnel.

**Doyle Conservation Center**, The Trust of Reservations | Leominster, MA (2004)

- New construction of 15K GSF 2-story building addition and renovation of 10K GSF red and grey buildings.

**Campus Center Building B**, Lasell College | Newton, MA (2004)

- Constructed new 4-story, 17K GSF mixed use building with 9K GSF subgrade parking garage.

<sup>1</sup> Inflation Adjusted to 2023 levels.

**Academic Building**, Lawrence Academy | Groton, MA (2004)

- Constructed new 2-story, 33K GSF academic building in historical district.

**Daniel Arts Center**, Simon's Rock College of Bard | Great Barrington, MA (2004)

- Constructed new multi-level, 42K GSF visual and performing arts building and new single-story, 8K GSF creative arts shop building.

**Center for Digestive Wellness**, Hung Won Montachusett, LLC. | Leominster, MA (2004)

- New 12K GSF, single-story endoscopic ambulatory surgery center with 3 procedure rooms, 13 bed recovery room, and 3 procedure rooms. Lobby featured 22' x 26' skylight to nurture fish pond and horticulture themed entrance.

**Medical Lasik Surgery/Ophthalmology Building**, D'Ambrosio Eye Care | Lancaster, MA (2004)

- New 13K GSF, single-story medical office building with partial basement.

**Lasell Village Building N18 Independent Living Facility**, Lasell College | Newton, MA (2003)

- Constructed new 5-story, 9-unit adult independent and residential building with 2-level parking garage.

**Elm Tree Hall Dormitory**, Lawrence Academy | Groton, MA (2003)

- Constructed new 2-story, 23K GSF, 44-bed dormitory with 4K GSQ basement. Installed geothermal heating/cooling systems.

**Cottage Hill Academy**, YOU Inc. | Worcester, MA (2003)

- New single-story, 31K GSF school and administration building and 3 new 7.5 K GSF group residence buildings serving the needs of emotionally challenged teenage females.

**Seminary Suites Building A and Bragdon Hall Building C**, Lasell College | Newton, MA (2001 & 2003)

- Constructed 2 new 4-story, 60-bed suite-style dormitories. Completed ahead of schedule and under budget.

**Cristin Rose Garden & MacMillan Dormitories**, The Berkshire School | Sheffield, MA (2002)

- Constructed 2 new, 2-story, 36-bed dormitories comprised of 3 individual wings and 1 common gathering area.

**Hill House Residence Hall**, Simon's Rock College of Bard | Great Barrington, MA (2002)

- Constructed new 3-story, 82-bed residence hall.

**Holt Residence Hall**, Lasell College | Newton, MA (2002)

- Constructed new 4-building residence hall project, including a 3-story, 56-bed dormitory.

**Senior Living Facility**, Meeting House at Stow, LLC. | Stow, MA (2002)

- New 3-story facility with an 18K GSF basement and 62 1 and 2-bedroom units ranging from 780 GSF to 1.6K GSF.

**Founders' Theatre & Spring Lawn Mansion Renovation**, Shakespeare & Company | Lenox, MA (2001)

- Multi-phase, multi-building project, including conversion of and addition to existing gymnasium building into Founders' Theatre featuring 450 seat Elizabethan style theatre with recessed stage.

**Additions & Renovations**, The International | Bolton, MA (2001)

- Members building additions and alterations project to support the new 18-hole Fazio designed golf course.

**Alumni Residence Halls**, Bard College | Annandale-on-Hudson, NY (2001)

- Constructed 108-bedroom dormitory complex with 6 new 3-story buildings.

**The Villages at Walker Meadow Senior Living Facility**, Walker Meadow Development, Inc. | Westborough, MA (2001)

- Building construction program on 47-acre site comprised of 100 2.5K GSF residential units located in multiple cul-de-sacs with a community clubhouse.

**Simonds-Sinon Cancer Center**, UMASS Memorial/Health Alliance | Fitchburg, MA (2001)

- New 2-story building addition, connecting ground and first floor levels of existing Simmons Building of Burbank Fitchburg campus of UMass Memorial. A 1.8 GSF reinforced concrete bunker for laser treatment with 48" thick walls and 8' concrete roof.

**Lower School & Alumni Center for the Performing Arts**, Applewild School | Fitchburg, MA (2000)

- Constructed, 2-story classroom building and performing arts center.

**Cruger Village Dormitory**, Bard College | Annandale-on-Hudson, NY (2000)

- Constructed 2-and-one-half story, 68-bed dormitory with two-story study hall and full kitchenette.

**Kilpatrick Athletic Center**, Simon's Rock College of Bard | Great Barrington, MA (1999)

- Constructed new 3-story athletic center with Olympic size pool, NCAA basketball court, and tennis courts that convert to ice skating rink seasonally. Reduced engineering cost by \$400K.

**Mill Buildings Renovation & Addition**, Eastern Nazarene College | Quincy, MA (1999)

- Extensive demolition and reconstruction of 2 mill buildings together with new 9K GSF addition & 71K GSF renovation.

**Fisher Science & Academic Center/Library Renovation**, Simon's Rock College of Bard | Great Barrington, MA (1998)

- Constructed new 2-story building with full basement with \$500K cost reduction.

**Keefe Residence Hall**, Wheaton College | Norton, MA (1998)

- New construction on constrained site between existing residence halls and residential neighborhood spanning 3 stories.

**William's Performance Arts Center & Faculty Housing**, Lawrence Academy | Groton, MA (1997)

- Project entailed extensive demolition and renovation of a 36K GSF gymnasium, student cafeteria, and locker rooms into a new performing arts center and turn-key construction of 4 new faculty residence buildings.

**Chan Shun Dining Commons**, Atlantic Union College | Lancaster, MA (1995)

- New 3-story, multi-program dining commons building.

**Historic Woodblock Building**, Bovenzi, Inc. | Leominster, MA (1988)

- 25K GSF, 5-story commercial renovation, including a 5K GSF restaurant on ground level and 20K GSF of office space on floors 1-4.