

# **The Construction Conversation**

## **Ohio's Legislative, Administrative, and Judicial Two-Way Newsletter**

January 2026

A Service of Luther L. Liggett, Attorney at Law  
LLiggett@columbus.rr.com

### **Legislative: Construction Bills**

In addition to the biennial Capital Construction Appropriation due for the General Assembly to pass before June 30, 2026, several other bills remain pending from last year's introduction. (Cont'd p. 2).

### **Administrative: Best Value Selection**

The Ohio Facilities Construction Commission announced an administrative rule to enact its legislative change included in last year's Budget to allow "Best Value Selection" of contractors. (Cont'd p. 3).

### **Judicial: AG Sues Solar Provider**

The Ohio Attorney General sued a Residential Solar Panel installer for violations of Ohio's Consumer Sales Practices Act, alleging false energy-savings promises to make sales. (Cont'd p. 3).

### **Administrative: Nuclear Power Construction**

The mega-corporation Meta, known primarily for operating the social media giant Facebook, agreed to finance construction and development of nuclear power plants intended to support Meta's data centers in Ohio. (Cont'd p. 3).

### **Judicial: OUPS Duties**

A contractor struck a gas line while grading earth in construction of a highway project, alleging that neither ODOT nor the utility correctly identified the location or

depth of the gas line. (Cont'd p. 4).

### **Administrative: Development Projects**

In January 2026, the Ohio Department of Development announced the award of grants and loans across the state for new commercial and home development construction projects. (Cont'd p. 4).

### **Judicial: Joint and Several Settlement**

A court entered judgment on behalf of a construction contractor against a commercial apartment owner and its management company, for enforcement of a mechanic's lien. (Cont'd p. 5).

### **Administrative: New Aviation Manufacturing**

Joby Aviation, Inc. announced its expansion to a second manufacturing facility of 700,000 square feet in Vandalia, at a cost of over \$61 million, to develop electric air taxis for commercial service. (Cont'd p. 5).

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## **Legislative: Construction Bills (Cont'd)**

House Bill 288, To require owners of private construction projects to timely pay contractors. Passed out of House Small Business Committee with Republican opposition on June 17, 2025. Awaits House Floor vote or return to Committee for amendments.

House Bill 361, To require townships with a population of 5,000 or more to adopt a zoning plan and to make other changes regarding building inspections, local regulations, and zoning. Substitute Bill accepted on November 13, 2025 in the House Local Government Committee, awaits further hearings.

House Bill 568, To limit retainage to 5% in certain private construction contracts and subcontracts. The House Small Business Committee heard Proponent Testimony on November 18, 2025, including 9 witnesses representing trade associations, and awaits further hearings.

House Bill 605, To codify the Spearin doctrine in public construction contracts. Awaits Committee assignment and Sponsor Testimony from Representative Heidi Workman (R, Rootstown).

Senate Bill 54, To establish a voluntary certification for specialty residential construction contractors with the Ohio Construction Industry Licensing Board. No witness appeared for Opponent Testimony in the Senate Workforce Development Committee on April 1, 2025. Awaiting another Committee hearing.

Senate Bill 101, To require certain liens filed with the county recorder to set forth the last known address of the lien debtor, to require a memorandum of trust or

other qualifying instrument concerning real property, and to prohibit certain unfair service contracts regarding residential real estate. Passed the Senate unanimously, reported out of House Judiciary, and is pending a House Floor vote.

Senate Bill 125, To require licensure of commercial roofing contractors. Seven witnesses testified in support on April 1, 2025 in the Senate Workforce Development Committee. Pending further hearings.

Senate Bill 250, To authorize a non-refundable, transferable tax credit for charitable organizations that construct owner-occupied housing and to name this act the Promised Land Act. Ten witnesses testified favorably in the Senate Housing Committee as recently as November 4, 2025. However, the issue is tied to budgeting. The Bill awaits further consideration.

Senate Bill 262, To require a public authority or other party to a construction contract to note variations from an industry standard form. Opponent testimony is scheduled for January 27, 2026 in the Senate General Government Committee.

Senate Bill 268, Regarding regulatory focused nongovernmental organizations and model administrative rules adopted by state agencies. The Sponsors expressed concern that building code associations such as the International Code Council or the American Society for Testing and Materials should disclose third party lobbyists on amendments. The Bill awaits further scheduling, if any.

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## **Administrative: Best Value Selection** (Cont'd)

Best Value Selection (BVS) allows public authorities to combine the current 2-steps (RFQ, RFP) for Construction Manager at Risk and Design Build into 1-step for projects of less than \$4 million, R.C. 9.334 and 153.693.

New Administrative Rule 153:1-6-01 provides details to the process for CM at Risk; new Administrative Rule 153:1-6-02 provides details to the process for Design Build proposals.

Of concern is the request for design professional pricing proposals before qualifications selection, in violation of the Qualifications-Based Selection statutes, both federal and state (the Brooks Act), which prohibits asking price as a "qualification".

Such a process simply becomes commodity low-bidding of design professionals.

OFCC justified the practice by claiming that "BVS will maintain project integrity while allowing the planning process to move along, saving districts potentially up to two weeks."

## **Judicial: AG Sues Solar Provider** (Cont'd)

The lawsuit alleges that the contractor estimated, sold, and installed solar panels necessary to produce a certain

number of kilowatts over a year, which "frequently fail to produce the promised amount of electricity."

Because homeowners still have to pay a monthly utility bill from the traditional electricity provider to cover electricity used beyond solar production, the homeowners end up paying more for electricity.

Conceptually, if a homeowner's system produces enough electricity, the homeowner would receive a credit for excess electricity sent back to the traditional electricity grid, known as "net metering".

The contractor also financed the solar panel purchases with 20 or 30 year loans, requiring monthly payments in addition to traditional electricity payments. The loan becomes a lien on the home.

The contractor also claimed that the homeowner would receive federal tax credits, when some were elderly with little income tax against which to take any credit.

In addition to restitution for the cost of the solar panels, the Attorney General seeks civil penalties of \$25,000.00 for each consumer law violation.

*State of Ohio v. G3 Solar LLC*, Franklin County Common Pleas Court, 26-CV-000270

## **Administrative: Nuclear Power** Construction (Cont'd)

An affiliate of Oklo, Inc. purchased 206 acres off US State Route 23 in Pike County in December, 2025 from the U.S. Department of Energy.

Meta entered into an agreement with Oklo to develop a 1.2-gigawatt nuclear

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power campus, known as an Aurora powerhouse, the first of multiple sites for new construction.

For further information, contact:

Kevin Shoemaker, General Counsel,  
Southern Ohio Diversification Initiative  
(SODI), 614-327-3391,  
sodilaw@outlook.com

Separately, Meta entered into 20-year power purchase agreements with Vistra, the owner of the Perry and Davis-Besse nuclear power plants in Ohio

This financial commitment allows Vistra to invest in upgrades to the existing facilities.

For further information, contact:

Stacey Dore, Vistra, chief strategy and sustainability officer.

Urvi Parekh, Meta, head of global energy

## **Judicial: OUPS Duties**

During the planning phase, the utility physically uncovered the gas main to determine its depth or elevation. The utility also identified a bend, which brought the gas line higher in elevation and closer to the surface. This is where the contractor struck the line.

Prior to the work, the contractor submitted a ticket to the Ohio Utility Protection Service (OUPS), but understated the distance to be marked. The utility marked the underground facilities using yellow flags with a written disclaimer that they do not specify depth.

After rupturing the line, the

contractor documented that the gas line was located ten feet higher than shown on the plans.

R.C. 153.64(C) requires that the utility indicate not only the course of the facility, but also “together with the approximate depth at which they were installed.”

The contractor is not liable for severing the line if the lines are not as marked by the owner, R.C. 153.64(D).

R.C. 3781.30(A)(5) further requires that the contractor “excavate up to the total depth” (above the line), to “verify that the total depth of excavation is free of such facilities”.

Because ODOT and the utility marked the lines and gave notice on the plans, the burden shifted to the contractor for site verification.

The court held the contractor liable, because the contractor knew of the line’s location, and did not verify the depth.

*Columbia Gas of Ohio v. E.S. Wagner Co.*,  
Lucas C.P., 2025 Ohio Misc. LEXIS 3644.

## **Administrative: Development Projects (Cont’d)**

DOD provided over \$8.3 million for ten energy efficiency grants from its Advanced Energy Fund. The two largest projects include nearly \$2 million each, to Phoenix Cleveland OH Industrial Investors to replace HVAC and install a Solar Photovoltaic system; and to HB Magruder Hospital in Ottawa County, to install chillers, HVAC controls, new lighting, and a roof replacement.

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DOD further announced \$11 million through the federal Community Development Block Grant program for infrastructure in 51 communities. The two largest projects include funding for sanitary and storm sewers in Gratiot (Licking County) and in Trumbull County.

DOD announced \$100 million from the Residential Development Revolving Loan Fund to support housing construction in rural areas. Low-interest loans cover 50% of infrastructure development for public or private projects.

Finally, DOD gave \$18.7 million in grants through the Homeless Crisis Response Program to 52 non-profit and government agencies, to assist with rapid re-housing and emergency shelter services.

## **Judicial: Joint and Several Settlement** **(Cont'd)**

The property owners admitted liability on unpaid invoices for construction and painting services, for which the parties entered into a Settlement Agreement for \$354,792.54.

But the property owner argued that the Mechanics' Lien and partial payments must be allocated to individual liens for purposes of release and satisfaction, instead of a single amount secured by one Lien against both the owner and property manager as defendants.

The court held, "that joint and several liability generally attaches when multiple parties default on their collective promise to pay a single sum of money, unless the contract sets forth their individual obligations."

Since the Settlement Agreement did

not distinguish among separate real estate (apartments or buildings), nor apply past payments to separate invoices, nor allocate outstanding invoices to specific defendants, then the Mechanics' Lien attaches to the entire liability and real estate, each party liable for all.

Both the owner and property manager are liable for the entire outstanding balance, secured by the entire real estate attached by the Mechanics' Lien without partial release.

*K Kern Painting, LLC v. Millennia Housing Mgmt., Ltd.*, Lucas C.P. 2025 Ohio Misc. LEXIS 3650.

## **Administrative: New Aviation** **Manufacturing (Cont'd)**

The company announced the start of propeller blade production in Ohio last July 2025. The company's first Ohio location is at the Springfield-Beckley Municipal Airport.

Joby Aviation, Inc. (NYSE:JOBY) is a California-based transportation company developing an all-electric, vertical take-off and landing air taxi.

To learn more, visit [www.jobyaviation.com](http://www.jobyaviation.com)

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## **The Construction Conversation Call-In**

on

**Wednesday, February 11, 2026  
3:30 pm**

Luther L Liggett is inviting you to a  
scheduled Zoom meeting.

Topic: December Construction Conversation

Time: **Wednesday, February 11, 2026**

**3:30 PM** Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/82163177224?pwd=1ohmgu5D7XmuagfMZ0t2UxMjYp73M.1>

Meeting ID: 821 6317 7224

Passcode: 943722

+13092053325, 82163177224# US

+13126266799, 82163177224# US

