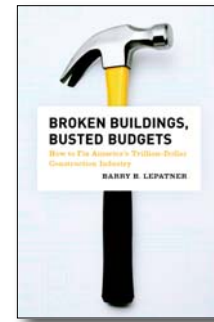


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Day of Reckoning: Why We Can No Longer Ignore the Fatal Flaws in America's Construction Industry

Our wasteful construction industry has always been an expensive problem, says Barry B. LePatner. But factor in a massive national deficit and the economic and safety threats caused by our aging infrastructure and you'll see that something has to give.

Chicago, IL (October 2007)—America's \$1.23 trillion construction industry is like a tantrum-prone child whose parents indulge his every whim. At first it may seem easier to give him what he wants than to overhaul his behavior. But one day he knocks down a supermarket display and hurls an epithet at the CEO you just ran into in the candy aisle and you realize your *laissez faire* approach was a huge mistake. If you're not following the analogy, just replace "tantrums" with "cost overruns, project delays, and perpetual waste." Then, replace the career-busting CEO encounter with the Minneapolis Bridge collapse and its fallout and you'll realize that the Day of Reckoning is here.

That's right. We've *always* had a serious problem with what construction attorney Barry B. LePatner calls "the industry time forgot." But several events have converged to bring construction's shortcomings kicking and screaming into the spotlight: the bridge collapse, the nationwide safety-threatening infrastructure issues it has forced us to acknowledge, and the budget deficits that are crippling all levels of government.

"We're in the middle of the perfect storm that could radically transform the construction industry," says LePatner, author of the new book *Broken Buildings, Busted Budgets: How to Fix America's Trillion-Dollar Construction Industry* (The University of Chicago Press, October 2007, ISBN-13: 978-0-226-47267-6, ISBN-10: 0-226-47267-1, \$25.00). "It's never been a secret that the industry has problems. Look at the Big Dig and its \$12 billion cost overruns—all for a project that leaks. But it's gotten too expensive to keep shrugging our shoulders and saying, 'That's just the way it's always been—nothing we can do.'

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“Plus, it’s no longer just about money,” he adds. “It’s a matter of public safety and that changes everything. It’s also a matter of America’s ability to compete in the global economy. Our aging infrastructure won’t help us stay ahead of an economic powerhouse like China, which, incidentally, has driven up our *own* construction costs. We need to take action—swift, decisive action that doesn’t devastate our already strained taxpayers—and we need to do it now.”

The answers, says LePatner, require rethinking the way this antiquated industry is structured as well as the way key players make their money. In his new book, he builds a powerful case for a much-needed change to a risk-averse industry plagued with an archaic Mom & Pop mentality, ineffective management that wastes 50 percent of all labor costs, a shortage of capital, and a tradition of contracts that insulate companies from the costs of their own mistakes. **(NOTE: See attached tipsheet.)**

First things first, though. Before we can talk solutions, we must understand the sobering scope of the problems we’re facing. Here are a few of LePatner’s predictions on the disasters we’re likely to suffer if we don’t reform the industry.

Construction costs will skyrocket to dizzying heights. America’s construction industry inefficiencies waste more than \$120 billion annually. Not scary enough for you? Try this. Before the Minneapolis Bridge collapse, the Brookings Institution forecasted that our nation will spend \$25 trillion on construction by 2030 and will create as much new building stock as currently exists. Now add to that the estimated \$1.6 trillion believed to be necessary to remediate America’s decaying infrastructure.

“The numbers are staggering,” says LePatner. “And who will be picking up the tab? Taxpayers like you and me. Rather than continue to waste billions upon billions on inefficiency and mismanagement, now is the time to bring about reform to the industry. It’s the only way to move forward.”

As America’s infrastructure ages we’ll see more and more structural failures. LePatner says the I-35 Bridge collapse could be a harbinger of disasters to come. Many of America’s big bridges were built around the turn of the century. In such instances, patching problems doesn’t cut it. These structures simply weren’t designed to last a hundred years or more without major renovations. Estimates vary on how much remediation of America’s infrastructure is needed, but most experts agree the cost is well into the hundreds of billions.

How did the problem get so severe? LePatner says that because remediation isn’t a “sexy” topic, political leaders tend to ignore it.

“For decades our leaders have closed their eyes to reams of engineering analysis and reports that have highlighted the deteriorating nature of our infrastructure and the costs of remediation—costs that increase exponentially as every year passes,” he says. “Most politicians push these reports aside for a successor to handle, and as a result, the problem has snowballed to staggering

proportions. Only construction industry reform will free up the time and money necessary for repairing our nation's infrastructure."

Home prices will continue to soar during a time when Americans could use a break. We can't have new homes, apartment buildings, or other places to live without the construction industry. And at a time when many homeowners and would-be homeowners are already struggling in the wake of the subprime mortgage collapse, home prices continue to rise because of cost overruns and time delays.

"If the construction industry could become more efficient, less money would be spent on projects," notes LePatner. "Cost savings would be passed along to consumers and taxpayers, making homes more affordable and giving the economy a much-needed shot in the arm."

Project delays will continue to rack up frustrating—and unnecessary—costs for businesspeople and taxpayers alike. Construction projects that aren't completed on schedule are expensive for everyone involved. If you build an office park, for instance, and it opens a year later than projected, you miss out on a year's worth of rent. And think about who bears the brunt when publicly funded projects are delayed...and delayed...and delayed. That's right. The ever-beleaguered taxpayer.

"If a school is supposed to be completed in August but it takes until December, obviously there are repercussions," says LePatner. "The school year must start on schedule and the students have to go somewhere. So the school district ends up having to spend hundreds of thousands of dollars on trailers to crowd kids into until construction is completed. These kinds of expenses are maddening because they don't have to occur."

Taxes will increase. Productivity on government construction projects lags behind that on private projects by a significant margin. Why? Because public officials have less incentive to keep caps on costs since they can often simply appropriate additional funding or, if a local municipality, float another bond issue to the taxpayers. Obviously, this is not good news for an already overburdened citizenry.

"Most Americans want low taxes, but also plenty of public goods, including nice schools, parks, municipal parking lots, stadiums, roads, and bridges," says LePatner. "Such seemingly incompatible goals can be reconciled only by making the construction industry more productive, capable of producing more built space with fewer dollars than in the past.

"When a construction project like a school is completed on time, the surplus can be used to fund more teacher salaries or computer labs," he adds. "I've helped school districts accomplish this by ensuring that construction projects come in on time and under budget—it *can* be done."

Here's the bottom line, says LePatner: America's construction industry *will* change. That change can come from within, or it can be imposed by an equity-investing business world. Either way, a revolution of sorts is imminent—and as with all revolutions, there will be winners as well as losers.

“Change will come, mandated by law or by the marketplace,” he reflects. “Those who get on board with the changes to come will realize that while the process may be painful, the outcome is most assuredly not. Opportunities and increased profits abound for those with the guts and the savvy to realize a new vision and work toward its creation.”

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About the Author:

Barry B. LePatner, Esq., is the founder of the New York City-based law firm LePatner & Associates LLP. For three decades, he has been prominent as an advisor on business and legal issues affecting the real estate, design, and construction industries. He is head of the law firm that has grown to become widely recognized as one of the nation’s leading advisors to corporate and institutional clients, real estate owners, and design professionals.

A nationally recognized speaker, Mr. LePatner has addressed audiences on topics central to trends affecting the real estate industry at recent events including: “Real Estate Outlook,” an annual seminar series for corporate and real estate executives; “Protecting the Owner from Pitfalls in Today’s Construction Projects,” a series of Continuing Legal Education lectures given to law firms and their in-house real estate departments; “Protection, Survival, Readiness: Project Strategy in the Post 9/11 World,” a seminar presented to institutional, developer and corporate real estate executives; “Secure Space,” a building security seminar for corporate owners and developers; and “Marketing for Design Professionals” at the Harvard Graduate School of Design’s Summer Program, with A. Eugene Kohn from 1990-2004.

He has written extensively and is widely quoted in the media on the subject of construction law. Mr. LePatner has previously coauthored the legal sections of the *Interior Design Handbook*, McGraw Hill, 2001, and *Structural & Foundation Failures: A Casebook for Architects, Engineers & Lawyers*, McGraw Hill, 1982, coauthored with Sidney M. Johnson, P.E.

Recently published articles include “Construction Cost Increases: Owners Should Know the Difference Between the Myths and Realities,” *New York Real Estate Journal*, October 2006; and “Are You Prepared—Disaster Management Plans Help Owners Protect Their Investments” in the March/April 2006 issue of *Commercial Investment Real Estate* magazine. Articles published in the *New York Law Journal* include: “Caveat Advocatus—Drafting Construction Agreements for Your Client’s New Construction Project Ain’t What It Used to Be,” March 27, 2006. Since 1980, he has edited and published the *LePatner Report*, a quarterly newsletter on business and legal issues for the firm’s design, real estate, and construction clients.

About the Book:

Broken Buildings, Busted Budgets: How to Fix America’s Trillion-Dollar Construction Industry (The University of Chicago Press, October 2007, ISBN-13: 978-0-226-47267-6, ISBN-10: 0-226-47267-1, \$25.00) is available at bookstores nationwide, from major online booksellers, and direct from the publisher at www.press.uchicago.edu.

For more information, please visit www.brokenbuildings.com.