

Non-Union Construction Pushing Into Commercial Real Estate



Michael K. De Chiara, Co-Founding Partner, Zetlin & De Chiara LLP, moderates panel at the Union League Club.

Open shop construction, an arrangement where both union and non-union firms work different portions of a job site, has become commonplace in residential projects as developers look to cut costs on wages.

Now, there are signs that the model may soon migrate to the commercial sector, further loosening the grip of union labor on the New York City market.

Commercial is switching over. Go out to the Brooklyn Navy Yard and you'll see an example. Talk to the clients that are trying to get new jobs off the ground. That's something that they're entertaining," said Turner Construction's Charles Murphy during a recent panel discussion organized by law firm Zetlin & De Chiara.

Murphy's firm has provided evidence of the growing popularity of the open shop model. Last year, Turner and Tishman Construction refused to renew collective bargaining agreements for union labor, indicating that they'll be using non-construction workers for their projects.

In spite of non-union labor gaining a seat at the table, they remain the minority.

According to Building and Construction Trades Council of Greater New York President Gary LaBarbera, union labor continues to have a strong presence.

"The fact of the matter is, people hear open shop, they think non-union. What is considered an open shop job, 80 percent of the work is actually union. It is not necessarily non-union," he said.

LaBarbera said that construction trades have awoken to the risks posed by their competitors, and he expects that union labor's increased competitiveness will stunt the growth of the open shop model.

"You're going to see less and less open shop work," he said. "There's no question that there's a segment of the marketplace, primarily the residential sector of the industry, where open shop work exists. In major projects: commercial, institutional and government, open shop really doesn't exist. What I am seeing from the last several months, the majority of the trades made significant adjustments for residential work. I think it's landing a little in terms of getting to the end user. But what I am seeing is that union trades are becoming more competitive than ever before on residential work."

Jay Badame, the president and COO of Aecom Tishman, disputed LaBarbera's estimate, saying that it's "probably a little bit more."

"Those consistent 20 to 30 percent trades that were being cut out of each project will have to say, 'We can do something.' They have to change the way they do business if they want to stay in business... New York is becoming an open shop town," he said.

Badame spoke about one his firm's projects on the West Side of Manhattan. Aecom Tishman hired three union firms for excavation and concrete work and three non-union firms to do the foundation.

"It's really supply and demand. The market will dictate. At the end of the day, they have to make business decisions that make their organizations more competitive," he said.

"At Tishman, it's music to our ears when we're working 100 percent union. But in cases where an owner says, 'I want you to be open shop.' We've no choice but to compete that."

Competition is likely to grow more intense as the construction industry succumbs to gravity after reaching record highs.

According to a recent New York Building Congress analysis, the value of construction starts in the city dropped by 22 percent to \$32.2 billion in 2016. The figure is lower than \$41.1 billion in 2015 but higher than the \$24.1 billion five-year average between 2011 and 2015.