

# THE ROOFTOPS PROJECT



## Perspectives

## Kenneth Levien and Kimberly Dowdell of Levien & Company, Inc.

**Kenneth Levien** and **Kimberly Dowdell** share thoughts with The Rooftops Project's Dmitriy Ishimbayev and Professor James Hagy on the role of project management in not-for-profit construction and renovation projects.

*Kenneth Levien, FAIA, founded Levien & Company, Inc. in 1992 after having spent nearly two decades as a practicing architect, construction loan monitor and project manager. His company provides real estate owner's representation and project management on capital projects. The firm's role on behalf of the owner is to organize, manage and document the work of the design and construction team to maintain scope, budget and schedule. Some of the company's notable clients include: Carnegie Hall, Columbia University, Central Synagogue, Park Avenue Armory, New York City Center, and Union Square. The firm has had a significant role in more than 300 projects, valued in billions of dollars, for more than 100 clients. Ken received his M. Arch. and B.A. in Architecture with Honors from Washington University in St. Louis. He was recipient of the University's Distinguished Alumni Award from the School of Architecture. He is also Treasurer of the New York City chapter of the American Institute of Architects (AIA) and a Trustee of the New York Building Congress Foundation.*

*Kimberly Dowdell, AIA, leads the marketing efforts at Levien & Company and also manages projects with a special focus on the client experience. Kim, who joined Levien & Company in 2011, is trained as an architect. She previously worked for architectural and planning firms including HOK and Ayers Saint Gross, as well as at the General Services Administration (GSA), in the Office of the Chief Architect.*

**RTP:** So what is project management and what does a project manager do?

**Ken:** Project management is a locus, a focal point in which all the various disparate points meet and someone organizes and makes sure that the flow of information and the management happens the way it's intended. A project manager is someone who organizes, manages and documents what a team does.

**RTP:** Tell us a little about your organization today, your team and your approach to project management.

**KEN:** The firm is currently 21 years old. Between our 19 permanent people and four part-timers, we handle about 30 projects at a time. A significant number of us are traditional architects, landscape architects, and engineers. We don't design buildings or act as construction managers. Our role is to represent clients who need to build a capital project, anything from a museum to a school to an office building. We do all different kinds of projects across the broad spectrum. Projects range anywhere in size from five million to a quarter of a billion dollars.

The firm's specialty is in the not-for-profit sector. About 75% of our work is in the not-for-profit sector, but we also work on hotels, apartment buildings, office buildings, office interiors, and shopping centers. Our role on behalf of the client is to organize, to manage and to document. Our key goals are to control the scope of the project, the budget of the project, the schedule, and the quality of what is being built.

**RTP:** From looking at your portfolio, you have enormous breadth as well as depth in not-for-profit work. It's not a coincidence now, but did you start out with a particular focus on this sector?



**Ken:** No. I started out as a practicing architect and then was in the construction loan monitoring business in the 1980s. That gave me the opportunity to represent the financial interest, to figure out how the money works and how the contracts work. I stayed in that field for nine years. It was a real learning experience for me. We sold the company, and then I worked in project management again.

In 1992, I struck out on my own. We started as a little, tiny company. I got a phone call from the Harvard Club who said: "we need to build a new building, will you run it for us?" Then Columbia University needed to build a faculty residence and a private school. Also, Central Synagogue, built in 1873, had a devastating fire and the roof had collapsed into it. It was a marvelous beautiful building.

So after about six to nine months working on these projects, a colleague said, "you know, I really enjoyed doing these projects and you do too, more than just doing an office building." I said, "you're absolutely right!" And the fees were basically the same. We realized there was a need in the marketplace to do this kind of work and that's what we went and started doing. We purposely brought in a person who did museums, and someone who did libraries, and someone who did education projects. It's been very effective.

**RTP:** How are commercial projects different from non-for profit projects?

**Ken:** Commercial projects are designed and built to make money for the developer. Not-for-profit projects are built for program. Programmatically, a not-for-profit client is going to analyze even more deeply what is the wearability of a wall system if 12 years old boys are running through it. I think that commercial projects are relatively straightforward in the way you design, program and think about them, whereas not-for-profits, like a school, are extremely complicated. And not-for-profit projects generally cost more and are more difficult to program, because they are not repetitive. When you build an apartment building, you build an apartment A-type, B-type, C-type, and you go up twenty-five stories. When you build an office building, you're building an open canvas so that tenants can come and put their own interiors in it. If you are building a school, you have cafeterias, you have gymnasiums, you have science labs, you have libraries, and you have classrooms. You have so many different uses and requirements that the buildings are more complicated.

**RTP:** Is working as a project manager for a not-for-profit different for working for a commercial building, too?

**Ken:** Completely different. If I'm working for a commercial builder, it's my responsibility to oversee the design process and the construction process to make sure the design matches the market the builder is trying to get to and to make money at the end of the day. You don't want to spend a dollar unless you have profit from it. The key is there is one decision-maker. I go to a single person and I say, "I've got this issue, what do you want me to do?" I bring him the alternatives and he says this is what I want you to do.

If I'm building a private school, you're building for a program. You're building not for making money. You have a board of directors, because it's a 501(c) (3). There is a chairman, and there are donors, administration, faculty, kids, and parents. Maybe the little kids say they like the blue room better than the

yellow room. Your funding sources are different. A big donor may really want a second gym and is going to pay for it because he wants it. And you have the community. You may be borrowing money, or floating bonds that have credit enhancement that requires that I report to a bonding company. All of them have somewhat of a say with projects in the not-for-profit sector. The trick is to get them all to come to a consensus as to what the right program is, what the right price is, and how to get there. So it's much more complicated.

**RTP:** Most not-for-profits may not be accustomed to managing major projects. But some of your clients have sophisticated in-house project teams?

**Ken:** Yes, it's interesting. If you take a university that is building on a regular basis, it usually has a large team. It may have 20 or 30 in-house people. Sometimes they will retain us to build certain kinds of projects, or maybe sometimes it will be a neighborhood-sensitive project.

**Kim:** So we'll be an extension of their staff in other words. We plug in. Actually, one of our team members went up to Columbia University for a couple of years.

**Ken:** Four years, to plan a new campus.

New York City itself, which owns a great deal of projects, has its own 1,200 staff called DDC. But the cultural institutions in New York, the libraries, the museums, performance venues like Carnegie Hall, these projects are typically public private partnerships. We generally get a great deal of our work through those projects. With Carnegie Hall and New York City Center, we worked directly for the not-for-profit that leased those buildings from the City. Even though the City pays a significant portion of the construction, we basically report to two groups of people: the not-for-profit client, as well as the City, or the state or federal government.

**RTP:** Can it also be more comforting to a project funder if you are involved? While your client may be the not-for-profit receiving the funding, the funder may take some comfort in knowing that there is a project manager?

**Ken:** It makes a big difference. A lot of banks, for instance, will not lend to certain kinds of not-for-profits unless they know they have a real professional team put together that is going to oversee the project and make sure the budget, schedule and program are met. Banks never want to have to foreclose on a school. They want to make sure the school doesn't have to come back and say we want more dollars. Some independent schools have gone bankrupt with over-extension.

**RTP:** Do not-for-profits sometimes overestimate how much they can rely on board members or volunteers with only passing experience with real estate and construction projects?

**Ken:** Yes. Someone on the board of a not-for-profit says: "I have a friend who once built my home. So he'll take care of us." Or he's in the drywall business, so it is assumed he'll know concrete and steel, and how to design. Then they realize that he has no idea what he is doing and then we come back. We've done that with at least half a dozen projects in the past couple of years.



**RTP:** What's your experience where lots of different constituents are invited to provide input at the beginning of a project, and then there is trouble building a consensus?

**Ken:** Every organization is a little bit different. With certain of the private schools we've worked for, the headmaster had a very clear vision of what they wanted their school to be. In other situations the chairman of the board or the board committee had a very clear vision of the future of the school. We worked with another organization that had 17 different committees we had to talk with. Part of our job is to distill the information, to provide the final decision-makers with their options and the pluses and minuses. Then they make a presentation to the other stakeholders. We are often part of the presentation, so that questions can be asked. Sometimes those questions can be satisfied, and sometimes they don't fit programmatically with what the institution wants for the future. You are always looking five years, or 10 years, or 20 years down the line.

**Kim:** We have seven special requirements for non-profit projects. Every owner needs a knowledgeable advocate. So many non-profits are only building this one building; no one on that team is going to see another building or they haven't done it before. I think part of the value that we bring is the fact that we have worked with so many different architects, contractors and service providers before.

**Ken:** Sometimes we don't have a very clear answer. For example, what should a school library be like today? It was traditionally thousands of books. One of our schools is going to be giving an iPad to everybody in the school. Students are using them and getting their textbooks in certain ways so they can annotate them. So you don't need to buy 50 copies of a certain book when you can buy the electronic version of it and use it, annotate it. Where do those books go?

So we're finding libraries shrinking, but the technology is not 100% there yet. It's our job, because we do so many schools, to figure out what's going to be the next issue. Everybody thought that white boards were the future, but in reality television screens with things that interact with your computer actually replaced smart boards within five years of smart boards coming out. Even the furniture has changed. Steelcase, for instance, came out with a whole series of new furniture which is highly adaptable and beautiful, simply because they recognize that 12 year old boys don't sit still. It's kind of funny but that's really the truth.

**RTP:** How can clients recognize when is the right time to bring a project manager and other professionals into the process?

**Ken:** One of the frustrations that we have is that clients don't know we even exist sometimes. They understand what an architect does: he designs something. They understand what a contractor does: he builds it. As we said before, there is often someone who is a real estate owner or a contractor or an architect sitting on the not-for-profit's board. He or she thinks they can run the architect selection process, run the programming process, so on and so forth.

I must tell you it happens maybe in only one or two times out of 10 that we are the first ones in the door. Usually, we get brought in when it's already too late and they have already bought a piece of property and hired an architect who

may not be right for the project. These are the kinds of issues we face all the time and we have to backtrack and fix the issues. Not that we're so brilliant or the smartest people in the room. We don't have the answer to everything. But we know the questions to ask and who to ask them of. That's important.

I'll give you a great example. We were brought in to help manage a very large school project. Another architect had done their programming based on what they believed the needs were going to be. Then they brought us into the project and asked us to take a look at the program, which called for a building of about 80,000 square feet for somewhere in the neighborhood of 600 students. They had the programming but they didn't know how to handle the real estate.

We looked at the program and said it's not possible. They said, "what do you mean, we had an architect do it?" It had all the classroom spaces that were needed, but it had none of the circulation, none of the staircases, none of the lockers, none of the pieces that go into the school. And unlike an apartment building, which has maybe a 12% loss factor, schools have 40% to 50% loss factors. Schools have to have lockers and places for the kids to congregate and bathrooms and all that. The building almost literally doubled in size. That architect did not continue with the project. Had they gone ahead and not brought us in, they would have either bought the wrong piece of real estate or not been able to fulfill the program. So it's our job as project managers, owner's reps, to be there as early as possible.

**Kim:** One thing we have found is that architects often recommend us. They'll be a part of a project early on and realize that our role is missing. They will recommend that the client brings on an owner's rep.

**Ken:** We became involved in a private school addition that was very complicated. The owner had someone internally who was going to be the project manager. She was really a finance person. The architect and the contractor went to them and said, "you're really great with money, but we're going to lose money on this project because you don't have any design capability within your organization. Please hire an owner's rep and here are the names of three firms to interview."

**RTP:** How can project management help the project's bottom line?

**Ken:** We say to them, first of all, "you don't do this every day." Let's say you're a school that needs to do its first expansion in 25 years. You've never done it before; you administration already has full-time jobs. So who's going to do it and how are they going to get it done?

We have already done 25 private school assignments. For some questions, I know the answer in three or four minutes. It might take them three or four phone calls and four or five hours of their time finally to come to an answer. Or they may not get the right answer.

So, first, it brings order to the project. It relieves them of the problem of managing a project when they don't have the expertise. And we are really efficient, because we've built so many different kinds of projects. We know what things cost, and by organizing the project we save them a great deal of money at the end of the day. Way more than our fee. I can never qualify it, but we know we do. Time is money. If the project is delivered late it is very expensive.



**RTP:** Is this different than value engineering?

**Ken:** Value engineering is an iterative process that starts from the very first day. Cutting costs out of a project is not value engineering; it's a reduction of scope. Value engineering is really something that happens throughout the design process to make sure that when you do go out to bid you get the program at the right price, correctly.

**Kim:** We have a really broad range of expertise, including a structural engineer, a mechanical engineer, architects, basically virtually any type of professional you would need to make the call on a fairly complicated issue. So I think that's really where the value comes in. If there is something that's gone wrong or there is a question and Ken doesn't have the answer, he can very quickly go to Mary's office, or Pam's office, or whoever's office and figure it out.

**RTP:** Since you have so many different professional disciplines represented on your team, is it possible that a client might misunderstand your role?

**Ken:** It happens. Our client is the owner or the manager. I'm watching the architect to make sure they do their job correctly for the contractor. We never, ever design anything and we never build anything directly. You have to tell your client very clearly: "this is my role. My role is to represent your interests, the architect is responsible for the design, and the contractor is responsible for delivering what's on those drawings." It's that simple.

If I'm running a contract for the architects or the contractors, we'll negotiate the business terms. But I'm not touching the legal terms. Lawyers who are construction specialists are the ones who come and review the contracts.

**RTP:** New York's a huge city and a small town, especially in the real estate industry, not only on the commercial side but also on the not-for-profit side. If sometimes the discussions are tough, presumably everybody sees each other again on future projects, especially for someone with your footprint. You may see the same architects and the same general contractors more than once. How does that affect the dynamics in the room?

**Ken:** We'll only recommend people we know, because we know they'll do a good job. Here is something you have to keep in mind. When we go out with a request for proposal (an "RFP") for, let's say, architectural services or for construction management, everybody we bring to the table we know is qualified. We know basically all the major firms in New York and a lot of the small ones. There are new firms that are coming up and we are getting to know them.

Certain firms are really good at designing certain kinds of projects and really not good at doing other kinds of projects. We know that certain firms are really well organized and do a good set of drawings and some firms are less expensive than others. If the project is a \$100 million school on an existing campus, this is going to be a major management issue and the architects will have to turn around drawings instantaneously, which requires a huge bench. A wonderful school architect who has only 12 to 15 people may not be able to do that. What you do is try to make the playing field as even as possible. You don't try to bring somebody in who's inappropriate. So we may start with a list of 30 first, get it down to 15, ask 12 for qualifications, and then bring it down

to six. Those six might be interviewed to get to two finalists. This process might take months. The client makes the final decision.

**RTP:** For clients who are not involved with projects all the time, what should be their expectations? For example, how often are you in the field and how often should the architect be in the field?

**Ken:** Contractors are responsible for managing and running the site. The architect has to inspect the project, to make a critical observation to opine on whether the work has been put in place and meets the standard of the drawings and the intent of the contract documents. We don't inspect construction. We walk around it, look at it and review it. We are usually on the job site once or twice a week. Our people probably spend 25% of their time in meetings, 25% looking at technical information, and 50% writing minutes, doing the financials, and doing the paperwork that goes along with the project. But if it's on the drawings, it's the contractor's responsibility.

Each jurisdiction does it a little bit differently. In New York, there are a lot of inspectors who inspect the work. They do a sample; write a report on a form, stamp it as an architect or engineer, and it gets filed with the city. What the City does is use these inspection firms as their professionals.

If you are working with steel or pouring concrete, not only are we getting reports but they are also going to a second set of engineers. It's happened where the concrete wasn't poured correctly. They let the truck leave the plant and it sat for too long, spinning before somebody poured the concrete. Concrete has a life. If it's not poured in time you have a big problem. Now we bring in our structural engineer to meet with the construction engineer who is designing a solution. Normally, it's going to be just a back charge to the contractor and a very tough conversation about field management.

**RTP:** What do you do to protect yourself?

**Ken:** What we do is something I think is really important: we write very extensive meeting minutes of the ownership meetings. They go to everybody on the team, and we say "comment on them". Some people read them, others never read them until you need them. It's like the contract. They signed it, put it in the drawer, and never looked at it.

**RTP:** What is your advice to not-for-profits when seeking and selecting a project manager? How should an organization identify candidates?

**Ken:** You want to find firms that have a lot of experience and that are not bringing a bunch of kids to the table who have just finished college. Our average age is late 40s. Look for people who have experience in that particular building type, too. We are lucky that we have people here who have done everything. Project management firms are not all equal. We are not all the same. But the process is always almost the same.

**RTP:** What about hiring in-house project management talent for a single project?

**Ken:** Some people hire in-house. They will just hire an individual. The problem is that an individual is going to spend the last six months of the project looking for the next job. Or he may leave six months before it's done





because he has to go onto another project. Clients that build continuously can certainly hire internally.

**RTP:** What do you suggest for an organization that sees the need and benefit of a project manager and a full professional team, but feels either that its funding is too limited, or that its project is too small? And where is the line?

**Ken:** Often they have a building maintenance guy or engineer who can oversee that kind of work. And they may be able to do it pretty well. In those situations sometimes you do ask the board member to give you a little bit of help because it's so limited.

Projects that our firm takes on start at maybe \$3,000,000. We're not typically economical at lower levels. Sometimes we'll work pro bono, say for a social service organization we like, to do things just as our way of giving back. For one organization for the homeless, I did a year's worth of site searches for them. I must have visited 25 buildings until we finally found one. I didn't charge them for that. The agreement was that I would do the project if it happened. So there are ways of getting it done.

There are also some very tiny firms, one person firms who can do small projects. They don't cost as much. Some projects are simply too small. And even if it seems like the wolf watching the hen house, there are many responsible architects who are fully capable of managing a smaller project.

**RTP:** What about tenant improvement projects in leased space? Are landlords prepared to fund project management as a line item in a tenant allowance that the landlord may provide as part of the lease negotiations?

**Ken:** What happens is that most of the contractors are working for the builder, so they have their own departments. Some New York landlords own multiple office buildings in their portfolio and they also own their own construction company. Sometimes the landlord will say constructing the tenant improvements is part of the deal, that they will give you a discount if they do it. Sometimes the owner of the building insists that they build it, that they manage it themselves because they don't want their building damaged. In those cases we negotiate a deal with the construction company as best as we can. I have my client sitting there right with me and we act as an owner's rep. We try to pick the architect on behalf of the owner.

**RTP:** How do you discover what the appropriate price is for the tenant improvements that are designed and installed?

**Ken:** It's got to be open book. We don't believe in the allowance per square foot thing. We say just give us the money or if there is a standard and they say this is what we are going to build for you and it's part of your lease, you make an economic decision. It's a bit of a game.

**RTP:** And the landlord will let you use tenant allowance dollars for project management fees?

**Ken:** They'll allow you. Most of them are written now that 80% has to go into hard construction and 20% can be used for anything else, architect fees and those kinds of items. We see those quite often. We have been in a lot of different situations. We don't do a huge amount of tenant improvement work unless the client owns the building. Some not-for-profits may own the building themselves.

**RTP:** What role does sustainability play in project management?

**Ken:** It's a big part of our practice. Half a dozen of us are LEED AP. We don't do the LEED consulting ourselves, but I started becoming very sensitive to environmental projects in the mid-1990s and what's happened is it's become standard. You do a sustainable project as much as you can. Some of our clients want to have the LEED Gold plaque up, others just say make it "light green", which means do everything you're supposed to do and do it as best as you can but I'm not going to go through the paperwork and the formality of it. Ten years ago, it added between three percent and seven percent of the cost of construction, but today it's probably zero or maybe one percent at the top. There are reprocessed wood, non-PFC paints, and recycled brick. I think it's just standard practice. I think if you try to source materials nearby, try to do all the right things, in fact they cost less. If you work in a City building or if there is City money going into it, your project has to be LEED Silver. It's just a fact, you just go through the paper work and you do it. As a father with two kids with allergies, I believe in it.

**RTP:** How do you see project management evolving, and what changes do you see coming in the profession?

**Ken:** It's a new profession as Kimberly was saying. But over time it's becoming more accepted. Our view is to be a team builder and be collaborative, pay people fairly for doing good work, not be abusive. And to recognize that sometimes our clients make mistakes and are wrong and we have to tell them, explain to them why they are being unfair. I think ten years ago it wasn't like that. In the past, architects really did not want to work with people like us. In some instances they still don't, but I think over time it's going to become an accepted profession. But there is no licensing requirement. There should be some standard that people have to meet, in terms of being able to understand money and understand construction.



Dmitriy Ishimbayev studies at New York Law School, where he is a candidate for the Juris Doctorate degree in 2014. He concentrates his study on real estate law and is a student member of The Rooftops Project team. He also works as a law clerk with a Manhattan law firm. Prior to law school, he was a project manager in the construction industry. He has received his Bachelor's degree in Business Management and Finance from the City University of New York.





**James Hagy** is Distinguished Adjunct Professor of Law at New York Law School. He also founded and directs The Rooftops Project at New York Law School's Center for Real Estate Studies. More information about The Rooftops Project and Professor Hagy may be found at [www.nyls.edu/rooftops](http://www.nyls.edu/rooftops).

Copyright © 2013 Rooftops Group LLC. All rights reserved. These materials may not be quoted, copied, referenced, or reproduced in any way, in whole or in part, whether in printed or electronic format, without express written permission, which may be given or withheld in the sole discretion of Rooftops Group LLC.

The author and copyright holder may be contacted at [james.hagy@nyls.edu](mailto:james.hagy@nyls.edu).

**Important Note:**

This publication is not intended and should not be construed as legal, tax, investment, or professional advice. It does not purport to be a complete or exhaustive treatment of the topics addressed. The information and views expressed may not apply to individual readers or to their organizations or to any particular facts and circumstances. Sending or receipt of this publication does not create any attorney-client relationship. Engagement and consultation with appropriately qualified, experienced, and licensed professionals should always be sought with respect to planned transactions, investments, and projects.

Views expressed by persons or organizations interviewed or quoted by The Rooftops Project are not necessarily those of New York Law School, its faculty, staff, or students.

Neither New York Law School nor its faculty or staff evaluate, rate, review, or recommend products, services, or suppliers whatsoever. Any particular products, services, or suppliers mentioned are used as examples to illustrate concepts and are for general information only.

No representations or warranties are given whatsoever, express or implied, with respect to information contained in this publication or to its accuracy. Any representations or warranties that might otherwise exist, whether by statute, common law, or otherwise, are expressly excluded and disclaimed.

New York Law School, its faculty, and the authors, editors, and copyright holder of this publication expressly disclaim and do not accept any liability for any loss resulting from errors or omissions contained in, or for following or applying principles or views expressed in, this publication, including without limitation any liability for direct, indirect, consequential, exemplary, or punitive damages or for loss of profits or business opportunity, whether by tort, negligence, breach of contract, or otherwise.

