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Chapter
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Greater New York Contractors' NEWS



www.accany.org

PLEASE ROUTE THIS PUBLICATION WITHIN YOUR ORGANIZATION

MAY 2014

President's Message



Al Trudil

Well, spring and warm weather have finally arrived.

A great time was had by all at Casino Night. A special thank you to Jim Carlson, Mike Newman and Nick Terran and everyone else who helped make this a great evening. Everyone had a great time. The magician was excellent. The craps table was full of excitement as were the blackjack and roulette tables. Many great prizes were given out at the end of the evening

On March 26th, we had Wayne Atkins in for a financial workshop

Turn to President's Message on page 3

Membership Meeting May 1, 2014

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Learn about these and more at our May 1st Meeting

LaGuardia Marriott

Cocktails at 5:30 pm; Dinner at 6:30 pm
Register Online at www.accany.org

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PRESIDENT'S MESSAGE

Continued from page 1

called "Net Profit Pricing." It was very informative. All who attended picked up some good information on how to price labor better. It was another full house and it is always great to see such wonderful turnouts for courses. Thanks to Jimmy Moyen for all his help. If you have any courses you would like the board to look into, please contact any board member.

Our next event is the Mets game on Jun13. This is a well-attended event. Last year we had over 1,100 people attend so make sure you get your tickets early. More information will be posted on our website as soon as it becomes available. —*Al Trutil*



ACCA board members at work on April 10th. Join them and add your ideas. Call John DeLillo at 516-922-5832



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Greg Reddock Joins ACCA Board

Gregory Reddock has joined the Greater New York Chapter's Board of Directors. Greg is a Vice President at FOA and Son, International Insurance Brokers. We look forward to his long planning and financial management experience to be of great value our association. Welcome Greg. •



Greg Reddock

ACCA Greater NY Chapter

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Greater New York Contractors' News is printed monthly by the Greater New York Chapter of ACCA. Questions should be directed to the appropriate director or committee member for assistance. While this newsletter is designed to provide accurate and authoritative information on the subjects covered, the Association is not engaged in rendering legal, accounting, or other professional or

technical advice. Accordingly, the Association cannot warrant the accuracy of the information contained in this newsletter and disclaims any and all liability which may result from publication of or reliance on the information provided herein. If legal advice or other expert assistance or advice is required, the services of a competent, professional person should be sought.

Editor's Notes

by Anthony N. Carbone

How many inside administrative people does an HVAC contractor need to support the outside installers and service techs? Well, I have been comparing some "Mom & Pop" contractor operations that have one or two people in the store or shop answering phones, dispatching, billing, filing, handling permits, filing applications for rebates and accepting packages and deliveries. At some point having few people limits the ability of the influx and flow of calls that inevitably comes about with the summer's hot weather.

So at a point of saturation, there is only so much that two people can handle during the deluge of business and magnitude of summer calls. Some businesses have said, "We can only handle what we can handle." Others have said, "We only have "X" amount of technicians and a certain amount of slots available to do installs." Is this a self-defeating prophecy? Or does it make sense? You can't be all things to all clients. Some companies only service their contract customers and if you aren't a contract paid customer you don't get service, at least quick service.

Alternately, there are top heavy contractors that have the ability to handle any mass influx and do it well by having a well-oiled machine waiting to harvest the fruit of the season. But at what cost and does it erode the profits to the point that it might not make sense? Is the return on investment (in personnel) not worth the end profit result due to the cost of the operation to bring in "big" business? Does the large outfit end up with the same percentage profit as the small contractor?

One medium contractor said he generates enough work for each crew that he is man to man from field crews to inside administrative support. Have the administrative burdens to operate an HVAC business grown to a point that such procurement is required to get the complete job done from cradle to grave??? What are your thoughts and what is the future trajectory of HVAC contractor companies and their administrative duties? Is this a roundtable program discussion that you might like to see for our future monthly program? Tell us what you think! —**Anthony N. Carbone**



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ASHRAE Joins NAHB and ICC to Develop New National Green Building Standard

The National Association of Home Builders (NAHB), building science society ASHRAE and the International Code Council (ICC), developers of the ICC Family of Codes for the built environment, have agreed to jointly develop the 2015 edition of the ICC/ASHRAE 700 National Green Building Standard. This is the third edition of the standard and the first time that ASHRAE has partnered on its development.

“ASHRAE’s participation is welcome news for the home building industry,” said NAHB Chairman Kevin Kelly, a home builder and developer in Wilmington, Del. “This cements the position of the National Green Building Standard as the preeminent green standard for residential construction.”

In 2007, NAHB and ICC convened a consensus committee of home builders, code officials, product manufacturers, building science and energy-efficiency specialists and governmental representatives to develop the standard. It was approved in 2009 by the American National Standards Institute (ANSI) as the first green standard for residential construction, development and remodeling. Since then, the National Green Building Standard has helped define and advance sustainable home building, remodeling and development – a sector expected to represent as much as a third of the market by 2016.

Now known as the ICC 700 National Green Building Standard (NGBS), it was updated in 2012 by a subsequent consensus committee and again approved by ANSI. NGBS has been used to certify more than 32,000 single- and multifamily homes and residential developments for reaching its established benchmarks for energy, water and resource efficiency, indoor environmental quality, home owner education and site development.

“As one of the nation’s leading societies for building technology, ASHRAE brings years of experience and knowledge to the table, particularly in the areas of indoor environmental quality and energy efficiency,” said ICC Board President Stephen Jones, CBO, and CEO Dominic Sims, CBO, in a joint statement. “ASHRAE’s welcome involvement will help position the ICC/ASHRAE 700 National Green Building Standard even further ahead as the leading consensus standard in the industry.”

“ASHRAE is pleased to stand beside NAHB and ICC as a co-sponsor of ICC/ASHRAE 700,” ASHRAE President Bill Bahnfleth said. “This collaborative agreement provides a path forward for ASHRAE to contribute its technical and standards expertise to support one of the most important sectors of the built environment – our homes. We look forward to this joint effort to promote sustainability in the residential sector.” •

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Website: www.pmpHR.com

The Final Scoop on the NYC Earned Sick Time Act

Despite the NYC Earned Sick Time Act going into effect on April 1, 2014, the City has been slow to release many details. In particular, until recently it was unclear as to which businesses and employees this law applies, on what basis employees can take leave, and the rate of pay employees are entitled to while on leave. After directly contacting city officials we have managed to obtain answers to these questions.

The NYC Earned Sick Time Act requires NYC employers with 5 or more employees to provide up to 40 hours of paid sick leave per calendar year. Companies with fewer than 5 employees must provide 40 hours of unpaid sick leave per year. To qualify for leave, employees must work at least 80 hours per year in NYC, this includes full time, part time, and temporary employees.

This law applies to employees who have done work within the City, even if their employer is physically located entirely outside the five boroughs. In other words, if a company has an office located on Long Island but has employees that work at least 80 hours per year within the City, then those employees must be provided with sick leave as provided by this law. In addition, employees gain one hour of sick leave for every thirty hours worked within the City, up to a maximum of forty hours. So while it is quite easy for employees to qualify for leave under this law, for an employee to actually accumulate a substantial amount of leave time, they must work within the City on a fairly regular basis.

The City has also clarified the basis for which employees can take leave. Employees may use sick leave for an employee's mental or physical illness, injury, or health condition as well as the diagnosis and treatment of the condition. An employee

can also take leave to care for a family member who needs medical diagnosis, care, or treatment of an illness, injury, or health condition, or who needs preventative medical care. A family member is defined as a child, grandchild, spouse, domestic partner, parent, grandparent, child or parent of employee's spouse or domestic partner; or sibling.

While on leave, non exempt employee must be paid sick leave at the employee's regular hourly rate, which must meet or exceed the New York State \$8.00 minimum wage. However, sick leave is not counted as hours worked for purposes of calculating overtime. Furthermore, if your company already has a leave policy that provides more than forty hours per week of paid leave, you are most likely already in compliance with the law. Though, records relating to sick leave must be maintained for at least 3 years.

If you have any questions regarding the NYC Earned Sick Time Act, including whether the law applies to your company, please do not hesitate to give me a call.

The NLRB's Assault on Employee Handbooks

Over the past few years the National Labor Relations Board has invalidated dozens of employee handbooks that were in violation of the National Labor Relations Act or NLRA. The NLRA protects employees who are engaging in "protected concerted activities." These include comments made to other employees regarding wages, hours, and working conditions. Recently the NLRB has found many employee handbooks to be in violation of the NLRA as they have a chilling effect on worker's rights.

Recently the NLRB struck down an employee handbook which contained the following language: "We will not make negative comments about our fellow team members and we will take every opportunity to speak well of each other. We will not engage in or listen to negativity gossip. We will recognize that listening without acting to stop it is the same as participating. We will respect [company] in the community in a positive and professional manner in every opportunity." The NLRB found that this policy could cause employees to be hesitant to engage in concerted activities. Note that this case arose after an employee called her co-workers an expletive on a social media site.

The NLRB has also invalidated confidentiality clauses for investigations. They have held that such policies are only valid where the allegation is severe, there is a need to protect against the destruction of evidence, and where there is a danger testimony could be fabricated.

The area where the NLRB has had the greatest impact is social networking policy. The NLRB is quick to invalidate any social media policies that are overly broad, or might have

the effect of restricting work-related communications. For example the NLRB has invalidated policies which required employee to check with HR before making posts about the work or the company; policies that request employees use a "professional tone" while using social media; policies which restrict the publication of confidential or proprietary information, and restrictions on publishing disparaging or defamatory comments.

The NLRB's crackdown on employee handbooks does not seem to be slowing down. We at Portnoy Messinger Pearl & Associates can draft language in your handbook that will protect your company's best interest.

If you need any assistance with regard to this or any other labor or employment matters please contact me at Abpearl@pmpHR.com or (516) 921-3400. •

Past ACCA Chairman Skip Snyder Passes Away

The national organization has announced that former ACCA Chairman Skip Snyder has passed away after a 13 year battle with cancer. Snyder was Chairman of ACCA in

2004 – 2005.

"He was an iconic leader with a unique passion for life, service to country and profession, and a love of family and friends," said Paul T. Stalknecht, ACCA president and CEO. "He was a person that you never regretted spending time with; you learned, laughed, and became a better person being in his company."

Snyder was an astute businessman, devoted father, and loving husband. He is survived by his wife, Laurel, and two children. •

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Statement From Stuart S. Zisholtz, Esq.

Time Frames For Mechanic's Liens

A while ago, I published an article setting forth the time frames associated with filing a mechanic's lien. I think it is important to revisit that topic since recent calls to my firm have indicated that many people still do not know the time frames.

On private projects, a mechanic's lien must be filed within 8 months after the last item of work or materials was performed. The lien lasts for one year. Before the end of the first year, the lien can be renewed on filing of a

notice. The second and third renewals must be obtained by Court Orders.

After the second order of renewal, there are no more renewals. That means that the maximum period of time that a mechanic's lien can remain on a piece of property is 4 years. You must foreclose that lien within the 4-year period or the lien will lapse.

With respect to a 1, 2 and 3-family house, which includes co-ops and condominiums, you can only extend a lien for the first time by a Court Order and then you have one more Court Order, after which the lien lapses. Under those circumstances, the maximum life of any lien on a residential project is 3 years.

What this means is that you have to move forward with a foreclosure action within that requisite period of time. If you start your action to foreclose the lien and file a Notice of Pendency where applicable, the lien will not lapse. The sum and substance is that you cannot sleep on your lien rights. You cannot keep renewing the lien and have the property tied up indefinitely.

Never let your lien expire!!

For a free copy of a pamphlet pertaining to mechanic's liens and payment bond claims, kindly contact me or the

Stuart S. Zisholtz is a partner in the law firm of Zisholtz & Zisholtz, Mineola, New York, a general practice firm specializing in Construction Law and Mechanic's Liens. He is also a member of the Greater New York Chapter, ACCA. He can be reached at 516-741-2200. •

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Contractor Comfort Index 73 in March; Up 8 from 2013

Indication Contractors Are More Confident in Short-Term Growth

The March Contractor Comfort Index (CCI) shows that contractors' positive outlook on short-term growth is holding steady at the end of the first quarter of 2014. ACCA began measuring contractor attitudes toward short-term economic growth with the CCI in February 2010.

For March 2014, the CCI is 73. The CCI also shows that contractors are continuing to feel better about short-term growth than they were 12 months earlier when the CCI was 65.

The CCI is calculated based on a survey of the association's contractor members, who are asked how positive they feel about new business prospects, existing business activity, and expected staffing decisions in the short-term future. Weighted and averaged into one number, a CCI of 50 or above reflects anticipated growth.

The CCI is released prior to the start of each month; the next index number was to be released during the last week of April. Members can access it at www.acca.org/release/contractor-comfort-index. •



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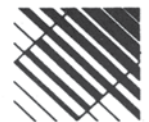
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