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Greater New York Contractors' NEWS



www.accany.org PLEASE ROUTE THIS PUBLICATION WITHIN YOUR ORGANIZATION

DECEMBER 2014

President's Message



Al Trudil

Well we're into fall now, the temperature is going up and down - one day you get calls for heat and the next day you get a/c calls and it looks like it's going to be a long winter.

The round table discussions were very enlightening at our last meeting. The topics Mike Newman set up to talk about had people well engaged. We also had our board elections and I would like to congratulate all who won.

The board is working hard on a schedule for next year with more commercial topics. Our OSHA 10 class in October was a big success with an over
Turn to President's Message on page 3



Cocktails and Conversation

Holiday Networking Party

Thursday, December 4th
6:30 - 9:30 pm
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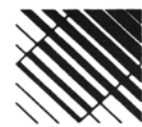
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PRESIDENT'S MESSAGE *Continued from page 1*

flow of people interested in taking the class. We are having another class December 6 and December 13 which is filling up so please check the website for more details and to register.

Our holiday party will be held on December 4th at Burton & Doyle in Great Neck. Check the website to register and for details. Don't forget to bring a toy for our Toys for Tots drive. Looking forward to seeing you all there. —*Al Trudil*

We Want You! Join a Committee!

Call John DeLillo at 516-922-5832



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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

This is a wrap to the year 2014.

The economy is swinging back and forth all year with all sorts of different turmoil. But, overall it appears the trajectory seems to be upward. Jobs are being created and with oil prices dropping 25%, we will see more discretionary spending taking place.

The ACCA Metro New York Chapter is expanding and many new faces are joining our organization. The Board of Directors are stirring interest within the industry. Many contractors are finding our programs and our events hard to miss.

We are still investigating what programs will interest our contractors and provide knowledge that makes sense... Please give us your ideas.

This year's holiday party will be at the newly renovated (under new ownership) Burton & Doyle Steakhouse. The holiday cocktail party will be a great time to bring your spouse, friends, or employees to a casual setting to catch up with each other. It is always a great event. We also ask you to consider bringing an unwrapped toy for "Toys for Tots."

From the Board of Directors of the Greater New York Chapter of ACCA, a Happy Holiday season!

Thank you for your support of this newsletter as it lets us get our message out.

— **Anthony N. Carbone**

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Chapter to Hold Its Second OSHA 10-Hour Training Class in December

If you missed the first set of classes for the OSHA required 10-hour training you may have the opportunity coming up quickly. But as with the first program, registration is filling fast so register right away. Visit our website at www.accany.org to register now.

The Greater New York ACCA Chapter will offer a second set of classes on Saturdays, December 6th and December 13th. (Both Days) from 9 am to 2:15 pm.

Content will be the following:

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Cost is \$25 per person to register which will be refunded upon completion. •

Scholarship Committee Creating New Standards

The Scholarship Committee of the Board of Directors is in the process of drafting a set of regulations and eligibility requirements for the chapter's annual scholarship awards.

The purpose of the grants, according to committee chairman John Ottaviano, is to encourage interest in the Mechanical/HVAC Industry by helping individuals attain a higher level of education and to provide qualified personnel to the Mechanical/HVAC Industry who are also qualified to promote its philosophy and goals.

Following is an outline of the material that has been

distributed to committee members as a work format. A final draft will be submitted to the entire board for action.

GENERAL POLICIES

Promotion of the Scholarship shall be by the GNYACCA and available on its web site.

1. The Scholarship Fund shall be placed in a separate Savings Account and maintained by the GNYACCA Office. The GNYACCA Scholarship Committee will administer the Scholarship Fund, awarding up to \$2,000 each year. Minimum principal balance maintaining at \$10,000.

2. Recipients shall be selected from various HVAC companies, High Schools, Technical Colleges, Colleges, and Universities. Each applicant must complete the appropriate application forms attached and mail to the Greater New York Chapter of ACCA, 123 South Street, Suite 112, Oyster Bay, NY 11771 to be considered for the following school year. Applications will be submitted to the Scholarship Committee for approval.

3. Each applicant must submit a written 1-page essay on why he/she is interested in pursuing a career in the Mechanical/HVAC Industry, including plans to do so.

4. Scholarship Recipient's will be notified each year for the following school year and the award rendered to the school in accordance with the appropriate school semester.

5. A Scholarship Recipient must be someone who intends to enter the Mechanical/HVAC Industry upon graduation. Should the recipient transfer to a field not related to the Mechanical/HVAC Industry, the scholarship shall be terminated.

6. Recipients are required to submit a new application with accompanying transcripts each year. Continuation of the scholarship is not automatic. A Recipient will be subject to losing his/her Scholarship if their GPA falls below 2.5.

7. Financial need will be a factor in scholarship selection.

8. An applicant need not be an employee of a GNYACCA Member firm to be considered for eligibility.

9. All other selection criteria being equal, an applicant who is an employee of a Member firm will be awarded the Scholarship. (Member firm is defined as a Contractor Member or an Associate Member of GNYACCA).

ELIGIBILITY

Applicant will verify pursuing a course of study at an institute of higher learning in directly related to the Mechanical Industry.

Upon Graduation you plan on staying in the Greater New York area, and would like to further your education in the Mechanical Industry. •

Large turnout on November 6th for Roundtable Discussions

The tables at the LaGuardia Marriott were filled as members took advantage of the opportunity to share information and get questions answered. Roundtables lend a great time to get to know your peers.



Also on November 6th Board of Directors tackles year end projects



ACCA Publishes ComforTool On Moisture Problems

ACCA has published its latest ComforTool for ACCA members to help educate customers. The newest addition to this series of fliers, "Moisture Problems" explains why it is important for customers to have a professional contractor address the moisture issues in their home to create a more comfortable, safer, and healthier indoor environment.

ComforTools are provided to ACCA members at no cost and cover a variety of topics related to HVACR businesses including design, installation, regulatory issues, business practices, and incentives.

"ACCA strives to provide our member with valuable consumer pieces that will help them educate their customers," said Paul T. Stalknecht, ACCA president & CEO. "Covering a topic such as moisture problems is extremely important. Most homeowners don't realize that the moisture issues in their home can cause them to be uncomfortable, and even worse, these issues may be causing an unhealthy environment for them to live in."

ACCA members can download this new ComforTool, and any of the other ComforTools in the library, for free in the Download section of the Member Service Center at <http://members.acca.org>. •

ACCA Releases New Weather Data for Manual J®

ACCA has announced the release of Addendum E to ANSI/ACCA 2 Manual J – 2011, which updates the weather data contained in Manual J®.

The Addendum underwent an ANSI Public Review period (August 29, 2014 – October 13, 2014) and was ANSI-recognized on October 20, 2014. The addendum updates the weather data values for outdoor design conditions in MJ8 Table 1A and Table 1B and provides a new degree day ratio (HDD base 65°F / CDD base 50°F) column. The purpose of the changes are to provide the most recent weather data by consolidating information from two separate authoritative sources and to present HDD/CDD ratios as required in ANSI/ACCA 3 Manual S® – 2014 for the optional heat pump selection and sizing procedure. This proposed revision has no effect on the underlying Manual J or Manual S procedures that use weather data values.

The information in Addendum E will be added to a future printing of Manual J. In the interim, you can download a free PDF copy (65 pages) of Addendum E from www.acca.org/standards/ansi. For questions about Addendum E, contact Luis Escobar, ACCA manager of codes and standards. •

People & The Workplace

By Alan B. Pearl,
Portnoy, Messinger, Pearl & Associates, Inc., Syosset, NY
516-921-3400, Fax 516-921-6774 e-mail: ABPearl@pmpHR.com, Website: www.pmpHR.com

What Employers Should Know About Vacation Benefits

Recent studies have found that vacations, especially those lasting a week or more, vastly improve moral, productivity, and employee mental and physical health. Offering generous vacation policies is also a cost effective means of recruiting and retaining talent. Vacation time is one of the least expensive benefits a company could offer, and is one that is highly valued by employees. Despite this, the United States is not a vacation-friendly country. Americans are provided less vacation time than any other developed country, and is the only wealthy country that does not require employers to provide paid vacation.

In Europe and in other developed nations around the world vacation benefits are generous to say the least. Germany requires 24 paid vacation days plus 13 paid holidays for a total of 34 days. In the United Kingdom it is 28 days, in Australia employees are

entitled to at least four weeks of annual leave, not including 11 paid holidays. In some countries employers are even required to pay a premium for vacation days to help employees pay for travel expenses.

Americans are also taking less vacation than ever before. It was recently determined that the average American worker only takes between 4-5 vacation days per year, a far cry from the six weeks taken in Germany. This phenomenon is the result of employee perception that taking the full allotment of vacation time will negatively impact their performance evaluations. To the contrary, human resources departments around the country are aware of the productivity increase that come with vacation time, and are trying to get employees to use their full leave, in some cases requiring that employees use their total annual allotment.

U.S. employers have nearly limitless flexibility when it comes to paid leave policies. However, there are still some rules that employers should be aware of. In addition New York City has recently passed a law requiring five days of paid sick leave, and is now considering a bill which will require an additional 5 days of recreational leave. This article will clarify some of these issues.

To begin, federal and New York labor law do not require employers to provide paid leave. Though there is an exception to this rule for government contractors under the Davis Bacon Act and Service Contract Act. If employers do offer vacation, they are permitted to choose the amount of vacation time, and who is entitled to receive it. Employers may also limit the amount of time employees may take at once, and when vacation time can be taken. Employers are allowed to provide different employees with different vacation benefits based on such criteria as seniority, and part time/full time status. However, an employer's vacation policy cannot have the effect of being discriminatory on the basis of race, gender, religion, or any other protected status.

Probably the greatest source of potential liability when it comes to vacations is what happens to accrued vacation time. Employers are generally free to determine how employees accrue vacation. Some employers provide a fixed number of days at the beginning of the calendar year, others have employees accrue vacation time based on the number of hours, days, or months worked. In New York employers are permitted to implement a "use it or lose it" policy. This means that whatever time is not used at the end of the year is forfeited. In other states, including Rhode Island, California and Illinois accrued vacation is considered compensation, and thus cannot be taken away once issued. In those states, or where no use it or lose it policy is in place, employers can put a cap on the number of days an employee can accrue.

While New York employers may implement a use it or lose it policy, employers may be required pay accrued vacation upon termination of employment. Under New York Labor Law if there is an agreement between the employer and employee regarding the accrual of vacation time, accrued time is considered "wages."

What constitutes an agreement ranges from a formal employment agreement, to provisions in an employee handbook, and even an informal email. Thus in most cases accrued vacation must be paid at termination.

Change might be on the horizon though, especially in New York, when it comes to vacation time. This year, New York City passed the Earned Sick Time Act providing employees with up to five days of paid sick leave. Recently a New York City Councilman introduced a bill which would require employers with 10 or more employees to provide an additional five days of paid recreational leave. Moreover, there are a number of state and federal laws that provide protected unpaid leave, notably the Family Medical Leave Act and the Americans with Disabilities Act. The best way for an employer to avoid any potential liability, either from a discrimination suit or from a claim under New York Labor Law, is to have a clear policy that is applied uniformly. In fact according to Section 195 of the New York Labor Law, employers are required to notify their employees "in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays and hours."

If you have any questions about your company's paid leave policy, or would like us to draft a policy for your employee handbook, contact me at abp@pmpHR.com or (516) 921-3400. •

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Statement From Stuart S. Zisholtz, Esq.

Willful Exaggerations and Mechanic's Liens

There is a common misconception that if you exaggerate a Mechanic's Lien, the damages are treble damages. That is not the way it works.

If you have a lien for \$50,000 and it is willfully exaggerated by \$10,000 so that the lien should really be \$40,000, the damages sustained consist of deducting the amount of the exaggeration from the amount that the lien legitimately should be, plus the legal fees and expenses in defending the claim. Thus, in this example, the \$10,000 would be deducted from the \$40,000 leaving a balance of \$30,000. If the legal fees are \$15,000,

they are deducted from the \$30,000 and you wind up receiving a total sum of \$15,000.00.

A willful exaggeration of a lien does not mean that if you fail to prove your claim it is willfully exaggerated. A willful exaggeration means a premeditated and deliberate attempt to add something that does not belong there. If you file a lien for \$50,000 and you can only prove \$25,000 that is not a willful exaggeration. But if you sent out bills for \$25,000 and then liened the job for \$50,000 because you included \$15,000 in interest and \$10,000 in legal fees, that is a willful exaggeration.

A common area of exaggeration of liens is where the entire contract is not completed. Supposing, for example, you have a contract for \$100,000 and you don't get paid and you walk off the job having completed only \$60,000 worth of work. If you file your lien for \$75,000, you will wind up with an exaggeration.

This subject is complicated and has to be reviewed on a case-by-case basis. The simple thing, however, is to remember not to add frills to the lien.

Never let your lien time run out!

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

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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Suffolk Adopts Geothermal Building Codes

Suffolk has become the first county in New York State to adopt a model building code for highly efficient geothermal cooling and heating systems.

According to a Newsday article the code is modeled in part on one already in place in the Town of Brookhaven. Supervisor Edward P. Romaine said the town will adopt the county's code.

Officials at a Long Island Geothermal Energy Organization conference in Ronkonkoma said that the code, if widely adopted by towns and villages, would help set standards for installation and environmental protection, and reduce red tape that can slow down work. The code was adopted by the Suffolk Planning Commission several weeks ago.

Suffolk County Executive Steve Bellone said an increased number of geothermal installations could help "reduce significant impacts in the environment and grow economic

benefits to our region."

Planning commission chairman David Calone, who led the county's adoption of a solar code three years ago, said the geothermal code would set best practices for installations, including safeguarding groundwater.

Geothermal systems tap into the stable subsurface temperatures of the Earth to cool and heat homes and buildings through pipes placed deep underground. The systems also are used to heat water.

At the conference, installer Rich Pandolfi of PGI Corp. showed how a geothermal system combined with a solar array could fully power and cool a 6,000-square-foot sparkling wine warehouse in Southold to reduce its electric bill to an average \$10 a month. The system paid for itself in around a year, Pandolfi said.

John Franceschina, a PSEG Long Island residential energy manager and president of the geothermal organization, said about 2,000 systems have been installed on Long Island, mostly in homes. Six companies install the systems full time and another 20 do so as part of their operations. He expects that to grow and said, "This code will contribute . . . it will put contractors, engineers and inspectors on the same page."

Home geothermal systems cost around \$30,000. PSEG offers rebates of about \$3,000 on standard systems, and a federal tax credit can cut the cost by another \$10,000, said PSEG renewables director Mike Voltz.

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