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Greater New York Contractors' NEWS



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JANUARY 2013

President's Message



Al Trudil

I would like to thank the board and its members for giving me the opportunity to represent ACCA New York in the coming year. Now that the holiday season is over and we start to plan the New Year, let's not forget those who are still feeling the effects of Sandy. Some of us are still recovering from Sandy while some of us are busy with the extra business it has brought. I know that getting equipment has been a challenge, remember our ACCA member suppliers and associate members are always here to help you.

As Mike Newman would say, "this year will be legendary." We will be
Turn to President's Message on page 3

Thursday, January 10th Meeting

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PRESIDENT'S MESSAGE *Continued from page 1*

focusing on increasing our local membership and seeking out participation from our contractors, suppliers and associate members. We would like you to think about how ACCA could help you this year. Are there any issues or topics you want to hear or know about? If there is please contact any board member and let them know. Please use ACCA as a networking experience and a place where we can bring the hottest and most relevant business topics back to you and your day to day operation

Thank you for your support and I look forward to seeing you at the next meeting.

—Al Trudil



Interested in Shaping Your Business Future and that of our Organization? Volunteer to serve as an ACCA Board Member. Contact Executive Director John DeLillo (516-922-5832) or any ACCA Board Member.



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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

THE HURRICANE SANDY HAS SPREAD A HUGE AMOUNT OF BUSINESS FOR HVAC CONTRACTORS. Many units, heating and cooling, need to be replaced and much is being funded by insurance companies.

Some people's disasters are other people's fortune. The boiler companies could not supply equipment fast enough to replace the needs of the hurricane stricken south shore. Many trees damaged outdoor equipment and condensers were being replaced in November and December. It was the first time many contractors were busy between Thanksgiving and Christmas.

Some customers have embarked on the installation of natural gas standby generators. There is an interest by many who swear they will never endure the punishment of no power which hurricane Sandy left behind. Natural gas generators provide a sense of security in the event of another power outage. With 90 percent of the Long Island region without power, many realized the potential trouble that could ensue.

This year we welcome incoming president Al Trudil of Almore Corporation to lead the New York Metro chapter of ACCA to new heights. It will be a tough act to follow as Mike Newman concludes his 2-year presidency, which many have described as "legendary."

Our focus and direction as per the board of directors will be to initiate more educational programs. We will continue to network with pertinent information. Please make it your business to join us in 2013. You will not be disappointed and it undoubtedly will add to your bottom line!

—Anthony N. Carbone

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Aftermath – HVAC Replacement Opportunities in the Wake of Sandy’s Destruction

By John Ottaviano – Air Ideal

Having seen a vast variety of flooded out and crushed heating and air conditioning equipment in the last few weeks, it seems self-serving to discuss the “silver lining” that being forced to replace HVAC equipment presents, but it is a huge opportunity for owner and contractor alike. Current recommendations from GAMA, FEMA and most insurance companies and state agencies are that any appliances including hot water heaters, furnaces, air conditioners and boilers that have been submerged require replacement rather than repair. Of course, for those with flood insurance or FEMA assistance, there is the opportunity to replace and upgrade your heating and air conditioning equipment while having that cost subsidized by your insurance company. For those that upgrade to a 16 SEER and a gas fired furnace with ECM motor, LIPA will now waive the requirement that your old system be operational and will also provide up to a \$1500 “Early Retirement” rebate.

Details of LIPA’s Sandy Cool Homes Air Conditioning offer and the parameters for eligibility to qualify affected customers are as follows:

1. Customers that never participated in the Cool Homes Program or rebated in 2009 or prior (2008, 2007, etc) may take advantage of the opportunity. Customers rebated from 1/1/2010 through today are not eligible for Early Retirement.
2. The new system to be installed must be at least 2 full SEER greater than the existing (damaged) system.
3. LIPA will waive the requirement that the existing damaged system must operate in order to qualify for Early Retirement
4. Both the Air Handler and Condenser must be replaced to qualify for a rebate. This is the same eligibility requirement as before.
5. A Manual J report, completed Air Flow and Charge Form, and all necessary supporting rebate application paperwork are still required.

6. You will need to still complete an ER, or PR, or CR Reservation Request form as standard operating procedure.
7. Please write on top of reservation request form “SANDY” in order to alert us the existing system may not operate and avoid a failed inspection.

8. Use an Early Retirement application when submitting rebate, as you normally do.

National Grid gas customers with flooded heating equipment can also receive some assistance. National Grid is reaching out to their natural gas customers who have been most seriously impacted by Hurricane Sandy in Long Island and New York City. Phase One of their Sandy Relief Program is broken down to two Tiers.

Tier 1 – all eligible gas heating customers that National Grid has placed a warning tag on a furnace, boiler or water heater will receive a \$150 credit on their gas bill. A warning tag means that the equipment is unsafe for relight and operation until repairs or replacement is made.

Tier 2 – In addition to the \$150 credit, for the most vulnerable customers receiving benefits under Home Energy Assistance Program (HEAP), they may be able to receive additional assistance in the form of National Grid covering the cost of gas/gas equipment (repair or replacement) related to Hurricane Sandy. Please call 877-MY-NGRID with any questions.

For those who may have been holding out replacing older inefficient HVAC systems because of expense, the combination of insurance subsidies and utility rebates makes this a great opportunity to have significant utility savings going forward. •



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ACCA Publishes New ComforTool Explaining Contractors’ Pricing

ACCA, has published its latest ComforTool for ACCA members to help educate customers. The newest addition to this series of fliers, “What Are You Paying For?” helps explain the many factors that contractors must consider when setting their prices for services. It also explains how some contractors can consistently offer low-cost services.

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

“ACCA often receives calls from customers asking what the average price is for a service, because there is a great variance of prices in the marketplace,” says Paul T. Stalknecht, ACCA president and CEO. “We created this ComforTool to help contractors explain to their customers that when working with a contractor it is important to hire a professional who has invested in their company to ensure that they are providing quality service. This one page flyer covers many of the factors that professional contractors must consider to properly price their services and the areas where low-cost contractors are often cutting corners to offer rock

bottom pricing. By educating customers about contractor pricing practices, they will be able to make a decision based on quality and professionalism, not just by price.”

ACCA members can download the new ComforTool, and any of the other ComforTools in the library, for free at www.acca.org/comfortools. •

Ronald Milano Passes

Ronald Milano, 77, passed away on Monday October 29th, 2012 at his home in Smithtown, NY.

Ron was born on September 11th, 1935 in NYC. Ron was co-founder and President of Ultimate Power, Inc. Where he dedicated more than 40 years of service to the Mechanical/HVAC Industry. Ron was also a Naval Reserve Veteran in which he took great pride.

Ron will be missed by family, friends, and colleagues alike.

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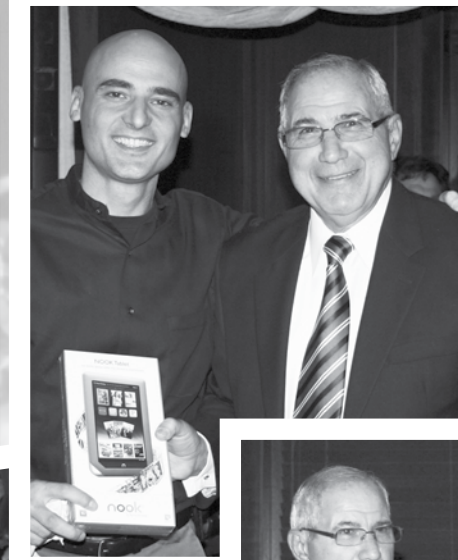
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People & The Workplace

By Alan B. Pearl,
Portnoy, Messinger, Pearl & Associates, Inc., Syosset, NY
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Pay Practices

I've found that a number of employers mistakenly believe that their obligations to pay their employees are governed solely by the minimum wage and overtime rules. I want to take this opportunity to emphasize that the New York Labor Law imposes wage requirements additional to the minimum wage and overtime rules. This article will briefly survey some of the additional requirements.

Frequency of Payment

The New York Labor Law regulates how often and when employees must receive their wages. Under the frequency of payment section of the Labor Law, workers are divided into four classifications, each of which is governed by a different set of rules; manual workers, railroad workers, commission salespersons, and clerical and other workers.

Notably, the law requires that manual workers (defined

as mechanics, workingmen or laborers) be paid weekly and not later than seven calendar days after the end of the week in which the wages are earned. Meanwhile, the law requires employers to pay clerical and other workers (defined as any workers who do not fall under the manual worker, railroad worker, or commission salesperson categories) in accordance with the agreed terms of employment (but not less frequently than semi-monthly) on regular pay days designated in advance by the employer.

Pursuant to the frequency of payment section, employers are prohibited from requiring employees to accept, as a condition of employment, wages at periods other than as provided by law. The section also requires that terminated employees receive their wages no later than the regular pay day for the pay period during which the termination occurred. Moreover, the section states that these wages must be paid by mail if the employee so requests.

Deductions from Wages

Employers are prohibited from making any deduction from their employees' wages (even if after the deduction, the employees would receive the minimum wage or more) unless the deduction is permitted by law. Section 193 of the Labor Law, the section concerning wage deductions,

permits employers to make deductions from an employee's wages in certain enumerated circumstances when the employee provides written authorization and the deduction is for the employee's benefit. The aforementioned section also permits employers to make deductions from an employee's wages in certain circumstances where the employer has overpaid the employee or provided the employee with salary or wage advances.

Notice of Wages

As employers welcome in the New Year, they should be mindful of the requirements imposed by the New York Wage Theft Prevention Act. The law requires employers to provide written notice of wage rates to all their employees by February 1st of each year. For newly hired employees, the law obligates employers to provide the notice at the time of hire. The notice must include the following:

- Rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other
- Allowances, if any, claimed as part of the minimum wage, including tip, meal, or lodging allowances. The regular payday designated by the employer
 - The name of the employer and any "doing business as" names used
 - The physical address of the employer's main office or principal place of business, and a mailing address if different
 - The telephone number of the employer
 - For any employee who is not exempt from overtime as established by New York law, the notice must also include the regular hourly rate and overtime rate of pay
 - Employers are obligated to give the notice both in English and in the employee's primary language (if the New York State Labor Department offers a translation). As of now, the New York State Labor Department offers translations in Spanish, Chinese, Haitian Creole, Korean, Polish and Russian

Importantly, the law also requires employers to notify employees in writing of any change to the information included in the aforementioned notice at least seven days before making the change (subject to a limited exception). Moreover, the law mandates that employers furnish a statement to each employee with every wage payment listing the following: the dates of work covered by that payment of wages; name of employee; name of employer; address and phone number of employer; rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other; gross wages; deductions; allowances, if any, claimed as part of the

minimum wage; and net wages.

For the sake of brevity, I've left out certain requirements imposed by the New York Wage Theft Prevention Act. Form 195 is the required form. Call me if you need it.

Sex Based Wage Differences

Employers are prohibited under New York law from paying an employee at a lesser rate than another employee of the opposite sex for equal work requiring equal skill, effort and responsibility, and which is performed under similar working conditions. Notably, the law provides an exception to this prohibition when payment is made pursuant to a differential based on a seniority system, a merit system, a system which measures earnings by quantity or quality production, or any other factor other than sex.

If you believe that your pay practices need to be reviewed, please let me know. Remember to check that both federal and state posters are up for the New Year. Best wishes for a Happy and Healthy New Year. •

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Winter Safety in Any Climate

By Kelly Hiner

Businesses with a fleet of vehicles face a variety of challenges during the winter months. With fewer hours of daylight and more hazardous road conditions caused by rain, sleet, snow or ice, safe driving practices and proper vehicle maintenance can go a long way in controlling costs and increasing efficiencies for drivers and their vehicles. The advantages can include everything from reducing the chances of vehicle collisions, personal injuries, worker compensation claims and downtime to avoiding expensive repairs caused by excessive wear and tear on a vehicle.

In addition to having a good driver training program that includes a written fleet safety policy, it's important to make sure drivers are familiar with some of the newer emergency icons that may light up on the dashboard to signal problems that need to be addressed. These icons include: (see graphic with icons for each of the following)

- **Traction Control**, also called acceleration slip regulation (ASR), is designed to ensure maximum contact between the road surface and the vehicle's tires when accelerating from a complete stop or speeding up to pass another vehicle, particularly under less than ideal road conditions.

- **Stability Control** utilizes speed sensors on each wheel, as well as steering-angle sensors and a hydraulic modulator control to increase traction during potential side-skidding situations.

- **Tire Pressure Monitoring System** (TPMS) uses pressure sensing transmitters mounted inside each tire to monitor an unsafe change of 25 percent or more in the air pressure in one or more of a vehicle's tires.

- **Antilock Braking System** (ABS) senses and prevents wheel lock-up to improve traction and steering during hard braking. Because the ABS allows drivers to steer while applying maximum braking, there is greater vehicle stability in an emergency and this can make a significant difference in avoiding obstacles.

While it is never a good idea to skip or postpone routine maintenance, it is essential to be vigilant about maintenance in the winter, especially for the following.

- **Wipers, Windshield & More.** Inspect wiper blades, windshield washers and washer fluid level. Seal any windshield cracks, which tend to spread in the winter. Also check each vehicle's battery for load capacity and the electrical/charging system, as well as all belts and hoses for softness and wear.

- **Tire Replacement.** Match dimensions indicated on the tire information decal for new tires to help avoid inaccurate speedometer/odometer readings, ABS brake malfunctions and multiple engine and transmission errors. Some vehicles with all-wheel drive require replacement of all tires at the same time because of potential driveline problems. Consult your owner's manual or a fleet management professional for additional information.

- **Tire Maintenance.** Use a quality air pressure gauge to check pressure at least once a week. Correct tire pressure helps extend tire tread life and gas mileage and contributes to good traction and handling. Rotation of the tires, recommended every 10,000 miles, will also extend the tire life further. This is especially true for front wheel drive vehicles.

- **Gasoline Selection.** Seasonal blends of gasoline will ensure better performance in the winter. Always consult your owner's manual for recommendations regarding grade or octane of fuel. While gasoline that is too low in octane can drastically affect vehicle performance, higher octane can drive up expenses unnecessarily.

Last but not least, check the vehicle's emergency roadside kit to make sure it is winter ready. Items may include a cell phone car charger or extra battery, first aid kit, and extra winter clothing, including gloves and boots, as well as a flashlight, tire gauge, fire extinguisher and snow shovel. Even with roadside assistance, being prepared can increase safety, reduce stress and make waiting for assistance more comfortable.

Kelly Hiner is Group Sales Manager for Enterprise Fleet Management in New York and can be contacted at 973-709-2499. Visit the company's web site at www.enterprisefleet.com or call toll free 1-877-23-FLEET.

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New Carrier White Paper Helps Calculate The Tax Savings Of A Geothermal Heat Pump System

Building owners, designers and contractors considering a geothermal heat pump system can now easily determine the associated federal tax credits, using Carrier's new white paper, Geothermal Heat Pump Systems and Federal Tax Incentives. The free paper, available on Carrier.com, provides an overview of the federal tax credit along with a payback analysis for new construction, retrofit or replacement installations, which can deliver tax benefits up to 50 percent of the original project cost in just five years. Carrier, the world's leader in high technology heating, air-conditioning and refrigeration solutions, is a part of UTC Climate, Controls & Security, a unit of United Technologies Corp.

The Energy Improvement and Extension Act of 2008 expanded the Investment Tax Credit to include geothermal heat pump systems. Under this program, a tax credit of 10 percent of dollars spent can be claimed for geothermal heat pump systems placed in service before the end of 2016.

"A renewable source of energy makes the geothermal heat pump system one of the most efficient heating ventilation and air-conditioning (HVAC) systems available," stated Greg Alcorn, vice president, commercial sales and marketing, Carrier. "Federal tax credit and depreciation deduction incentives increase the appeal of these cost-effective, flexible systems even further."

Carrier offers a comprehensive line of geothermal heat pump systems. Carrier® Aquazone™ water source heat pump products can be used in all types of water loop, ground water, and ground loop type systems. The units meet or exceed ASHRAE 90.1 efficiencies and boast extended ranges of operation from 20 to 110 degrees Fahrenheit along with a wide variety of options.

"Saving energy and reducing cost are at the forefront of our customers' needs," added Alcorn. "Customers are looking for investments that have immediate as well as long-term benefits, and our Aquazone geothermal heat pump systems deliver."

To learn more about Carrier Aquazone water source heat pumps and to download a free copy of the new white paper, visit www.carrier.com.



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**Statement From
Stuart S. Zisholtz, Esq.**

**“No Damage For Delay”
Clause**

Recently, I have been inundated with claims involving delay damages. Many contractors are seeking delay damages and many owners are claiming damages due to the work exceeding the initial time frame set forth in the contract.

Within a New York City contract, there is usually a clause entitled “no damage for delay”. A no damage for delay clause prevents a contractor from pursuing delay damages unless the contractor falls within various exceptions to the rule. Those exceptions include (1) when the delays were not contemplated by the parties at the time they entered into the contract; (2) the delay damages were the result of the City’s intentional wrongdoing; (3) gross negligence on the part of the City or (4) willful misconduct on the part of the City.

Under ordinary circumstances, the City will permit an extension of time to complete the contract. This extension of time is requested by the subcontractor by submitting a request to the City for additional time to complete the work in order to prevent any type of default or violation

of the contract.

Unfortunately, the City has begun to demand strict compliance to a routine extension of time request. If the subcontractor does not comply with the specific requirements set forth in the contract for an extension of time, it runs the risk of having the request denied. The denial may result in a default under the contract and the imposition of liquidated damages.

Once again, it is vital to comply with the specific terms of the contract. It is imperative that you understand and know the specific terms of the contract in order to comply with any extension of time or delay claim.

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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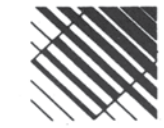
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