

## IN THIS ISSUE...

- 1 President's Message
- 1 October Meeting Notice
- 4 Editor's Notes
- 6 Holiday Party Notice
- 7 November Roundtable Notice
- 8 Pearl - Preparation for I-9 Audit
- 8 Welcome New Member
- 9 Photos from September Meeting
- 10 Zisholtz - Lien Law Hybrid
- 11 Manual J Building Code Requirements

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# Greater New York Contractors' NEWS



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OCTOBER 2014

## President's Message

Well it's September and we finally got summer weather. Our September meeting was held at Diletto's Restaurant and featured Steve Coscia who gave an informative talk on customer service.



Al Trudil

Our October meeting will be held at the LaGuardia Marriott. Our November meeting will be a round table discussion at Diletto's Restaurant. In December we will be holding our annual Holiday Party that benefits Toys for Tots. Another upcoming event will be an OSHA 10 class that will be given on 2 Saturdays. Please continue to check on our web site [accany.org](http://accany.org) for all pertinent information.

The board is working on the 2015 schedule, if you have any subjects you would like the board to get a speaker for let any board member know.

*turn to President's Message on page 3*

## October 2nd Meeting ADDICTION!

Forty million people have the disease of addiction! That's more than those who have heart disease, diabetes or cancer. Seventy-five percent of these people are currently in the workforce.

### HOW MANY ARE IN YOUR EMPLOYMENT?

At our October 2nd meeting, Mr. Gary Butchen, Executive Director of *Bridge Back to Life Center, Inc.* will explore with you the most common drugs of abuse, the impact to your bottom line and your potential liabilities. And, MOST importantly, what can be done to help your employee and save your business!

**THIS IS A VERY IMPORTANT MEETING.  
PLEASE LET US KNOW YOU ARE COMING!**

## LaGuardia Marriott

Cocktails at 5:30 pm; Dinner at 6:30 pm

Register Online at [www.accany.org](http://www.accany.org)

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**PRESIDENT'S MESSAGE** *Continued from page 1*

I am looking forward to seeing you all at our next meeting on October 2nd.. —**Al Trudil**



**ACCA board members are involved. Join them and add your ideas. Call John DeLillo at 516-922-5832**

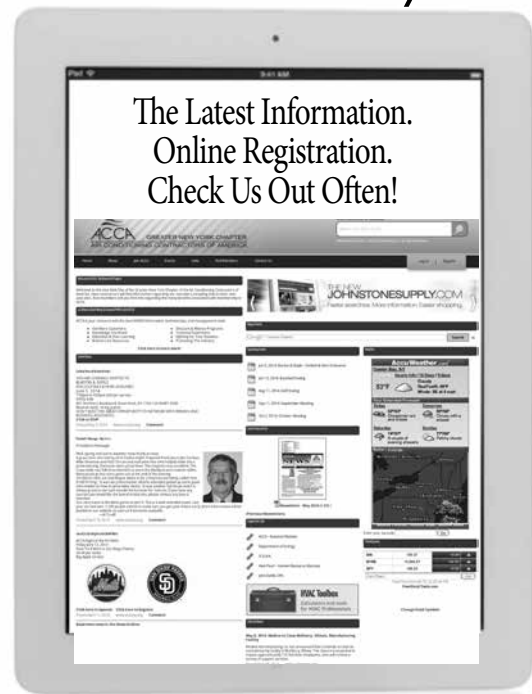


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*technical advice. Accordingly, the Association cannot warrant the accuracy of the information contained in this newsletter and disclaims any and all liability which may result from publication of or reliance on the information provided herein. If 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 September meeting, at Diletto's Restaurant, was very well attended as many board members and contractors were happy to regroup after the summer season. Many interesting perspectives were exchanged from the commercial contractor's point of view, as well as for the residential contractors. The weather affected the contractors differently. The suppliers also had interesting experiences. Having the venue to allow networking and the exchange of ideas and experiences is priceless.

The September program was excellent. Steve Coscia of Coscia Communications provided an insightful presentation regarding customer service. Management trends were presented with a slide show presentation, as well as audio examples of poor customer service situations. Very informative tips and training ideas were presented by Mr. Coscia. ACCA has also engaged Mr. Coscia to provide a full day's training seminar.

We encourage you to participate in our monthly programs and events as they are valuable tools for your business. Ideas, that you may have, are welcome and will be addressed to see how we may implement them into our meetings.

In addition, I, as editor, am requesting guest articles from contractors that are on the commercial side of our industry to offer alternative perspectives which might appeal to others. Contact me at [AC2@SystematicControl.com](mailto:AC2@SystematicControl.com). —**Anthony N. Carbone**

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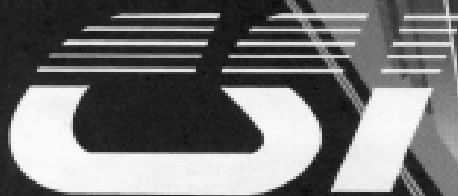
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- Computer Systems
- Retaining Employees
- New Technology
- Finding New Customers
- and of course,
- Funny and Entertaining Stories

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# 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

## Tips For Being Prepared In The Event Of An I-9 Audit

The Immigration Customs and Enforcement division ("ICE") of the Department of Homeland Security continues to issue Form I-9 Notices of Inspection to businesses, both large and small. These inspections have resulted in fines and, in some cases, criminal arrests of Company owners or managers. The Notices of Inspection require employers to allow ICE access to review all its I-9 forms within three days after the notice has been issued. The inspection will include the I-9 forms of current and recently terminated employees in addition to payroll records, a list of current employees and evidence of the Company's ownership. Because of this short time frame, employers must be prepared in advance of receiving an ICE notice.

We have prepared a list of tips which should help limit your exposure for I-9 violations:

1. Use the correct form. Employers were required to use the new I-9 form dated 3/8/2013 starting on May 7, 2013.

2. The form must be completed in accordance with strict ICE guidelines: An employee must complete Section 1 by the first day of employment and the employer must complete Section 2 including reviewing and certifying the documents no later than the end of the third business day after the employee's first day of employment.

3. DO NOT require or even suggest that an employee provide a specific document (i.e.-passport, driver's license, etc.). The employee should be given the list of acceptable documents from which to choose.

4. Assess whether the document reasonably appears to be genuine. While it is not the Company's job to act as a detective, you should not accept a document which appears blatantly falsified.

5. All documents presented must be unexpired at the time they are presented for completion of Section 2.

6. If an employee needs assistance in filling out the form, be sure that the preparer/translator completes the appropriate part of Section 1.

7. The employer should have a system of informing an employee of the expiration of their work-authorization well in advance of the expiration date (90 days is suggested) so the employee can re-apply for an extension before the document expires. DO NOT allow any employee to continue working once their work authorization has expired!

8. Keep I-9 forms in a separate binder for current employees and another binder for terminated employees. This facilitates the removal of employees from the "active" to the "terminated" binder. It is highly recommended that I-9s not be kept in personnel files.

9. It is recommended that employers conduct self-audits but only if they are well versed in the latest ICE regulations. Otherwise, please seek my staff's assistance in performing a mock audit before ICE comes knocking at your door. If an error is found during the self-audit, there are acceptable procedures that can be used to correct them. However, policies and procedures must be put into place so that similar errors do not occur in the future.

Civil penalties for errors on the I-9 form range from \$110 to \$1,100 per violation and the penalties are increased to between \$375 to \$3200 per violation for first time violators if it is determined that an employer hired an unauthorized worker. In determining the exact penalty assessment, ICE will consider factors such as the size of the business, the seriousness of the violation and whether the employer had undertaken efforts to comply. These penalties are easily preventable if your Company adheres to the procedures I have outlined above.

It is important to note that in my practice I have known too many Employers that have been assessed penalties for accepting Taxpayer Identification Numbers (also known as "TIN") for purposes of completing the I-9 forms. TINS are NOT one of the documents accepted by ICE and do not satisfy the legal requirements.

If you need any assistance with regard to this or any other labor or employment matters please contact me at [abpearl@pmpHR.com](mailto:abpearl@pmpHR.com).

To all of the Jewish ACCA members, I wish you a happy and healthy New Year. •

## WELCOME NEW MEMBER

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## Customer Service Superiority - The Key to Success. Challenging Topic of our September 4th Meeting



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

### **Lien Law Hybrid**

We all know that there is a distinction between a public improvement and a private improvement lien. A public improvement lien can be filed within 30 days after completion and acceptance of the property, and a private improvement must be filed within eight months after the last item of labor and material was supplied by the lienor.

A private improvement project is a building that goes up for private use, and a public improvement is a road, a school, a firehouse, a police station, a bridge, etc.

Then we get the hybrid. That is when the Governmental Agency owns the land and a private improvement is built on the land. Mitchell Field is owned by the County of Nassau, and technically none of the structures on Mitchell Field are lienable.

A number of years ago, the Lien Law was amended to reflect this hybrid law to provide that where the Industrial Development Agency (IDA) becomes the owner of a piece of property and does the financing for a private developer, that development is treated as a private improvement subject to a mechanic's lien.

In Times Square, the loophole was clearly evident in

a recent case. The underlying land was owned by the City of New York, which in turn brought in a public development corporation to clean up the area, which in turn leased some of the property to Loew's theater. A materialman filed a Mechanic's Lien and the Court ultimately vacated the lien because the City owned the property. There is no possible liability on the part of the City of New York. The loophole is that the job is not being financed by the IDA, and when Legislature amended the Lien Law they referred to the IDA and neglected to include all public benefit corporations. The Judge who struck the Mechanic's Lien was so incensed, that he wrote in his decision that it defies common sense and logic and called upon the legislature to plug this loophole.

The bottom line is that if anyone ever finds themselves in this type of situation, you must determine if there is a payment bond, and you must get direct contracts with the developer. You cannot rely upon a Mechanic's Lien under those circumstances.

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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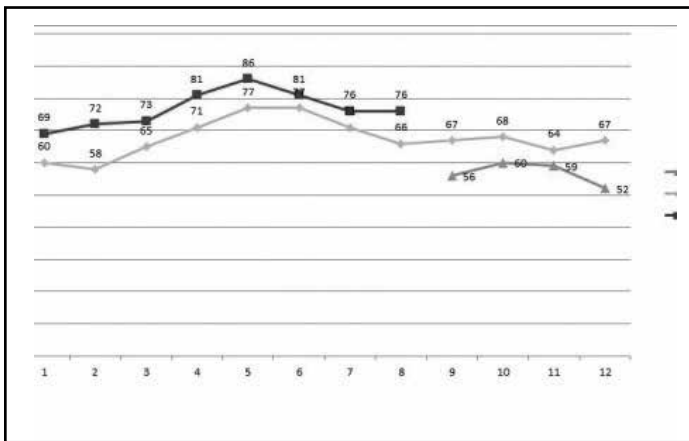
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## Contractor Comfort Index 76 in August; Up 10 from 2013

The August Contractor Comfort Index (CCI) shows that contractors are remaining positive about short-term growth at the end of summer. ACCA began measuring contractor attitudes toward short-term economic growth with the CCI in February 2010.

For August 2014, the CCI is 76. The CCI also shows that contractors are feeling better than they were 12 months earlier when the CCI was 66.

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 will be released during the last week of September. •

## Only ACCA-Approved Software Meets Manual J®, Building Code Requirements

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ACCA is reminding contractors that only those software

programs that have been approved and licensed by ACCA as "Powered by Manual J®" can be considered in compliance with codes and regulations requiring the use of Manual J®.

As of today, the only software programs that meet the requirements for Manual J® load calculations are:

**RHVAC Residential Load Calculation from Elite Software**

**Right – J from Wrightsoft**

**AccuLoads from ADTEK Software Company**

**Florida Solar Energy Center's EnergyGauge**

**CarmelSoft HVAC ResLoad-J**

**Avenir's HeatCAD And LoopCAD**

Any other software program, online service, or mobile application may not be considered to be compliant with the Manual J® standard and should not be used where Manual J® is required. Use of non-authorized software may pose a liability for the contractor that installs the system.

For more information on Manual J®, the ACCA system design process, and load calculation software, visit <http://www.acca.org/standards/software/>. Check this page often to check for updates on approved software.

Software providers interested in applying for validation and licensing of their product should contact Glenn Hourahan at [glenn.hourahan@acca.org](mailto:glenn.hourahan@acca.org).

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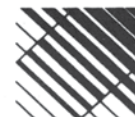
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