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Greater New York Contractors' NEWS



www.accany.org

PLEASE ROUTE THIS PUBLICATION WITHIN YOUR ORGANIZATION

FEBRUARY 2014

President's Message



Al Trudil

Flu season is upon us; hopefully we can all stay healthy during the next few months. And hopefully all our employees manage to stay healthy too. Starting our year off at our January meeting, which was held at the LaGuardia Marriott, was Gary Slavin and John DeLillo speaking about retirement – something we all strive for and hope can happensomeday.

Hopefully you got to come out to the Javits Center for the AHR Expo January 21-23. It's always exciting to see what new products are available

Turn to President's Message on page 3

February 13th Meeting

Two Presentations!

Improving Communications

Dr. Richard J. Atkins

Managing Director of Improving Communications,
a New York-based corporate training firm.

Residential Generator Market

Rick Hennig

V.P. Power Generation Systems

Scott Matalevich

of American Universal

at Diletto's in Westbury

See details on page 7

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PRESIDENT'S MESSAGE

Continued from page 1

within our industry.

March 17-20 will be ACCA 2014 Conference taking place at the Gaylord Opryland Hotel in Nashville Tennessee. It would be wonderful to see some familiar faces down there. If you would like more information about the conference or how to register go to acca.org.

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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

With record breaking cold weather and the use of a new set of terms called a "Polar Vortex" we here in the North East are experiencing cold temperatures like never before. This has been a windfall for many plumbers that are dealing with clients that have frozen pipes. Many homeowners here never had to consider the amount of insulation required to protect pipes. A new strategy is being put into place.

With these temperatures comes the business of heating breakdowns. Many systems that are in the excess of twenty years old have been living on borrowed time and are now being put to the test and put to their limits. Good thing contractors are waiting in the wings to provide new efficient systems. Alternatively many rooms in people's houses are finding their heating shortcomings. With that generating many leads to examine the problems and adding supplemental heating systems.

So you can say extreme temperatures can and do create new business...

This year, the Board of Directors have focused on exciting events and programs to attract new contractor members to our networking industry organization. That combined with our new format for our monthly newsletter, we should have standing room only at our monthly dinner program meetings. — *Anthony N. Carbone*



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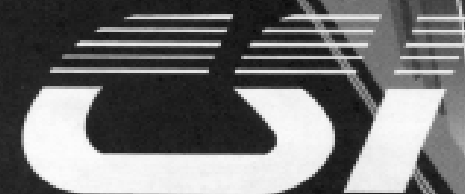
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January meeting: Gary Slavin and John DeLillo discussing retirement



...and at the January Board of Directors meeting, board members plan the work of the Greater New York Chapter.



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Two Valuable Presentations on Thursday, February 13th

Communication is power! You communicate every day but are you doing it effectively? Are you communicating clearly, concisely and with conviction? Is your body language projecting confidence? How are you perceived by your audience? Join us on Thursday, February 13th at Diletto's for a powerful and informative presentation by Dr. Richard J. Atkins. Dr. Atkins is the Managing Director of Improving Communications, a New York-based corporate training firm that offers Business Writing, Public Speaking, Customer Service, and Leadership & Management training.

Also joining us will be Rick Hennig, V.P. Power Generation Systems, and Scott Matalovich from American Universal. Topics include an overview of the residential generator market in our area, products and services that American Universal provides to their dealers, best practices related to selling and properly applying generators, and dealer training and programs available for authorized sales and service dealers.

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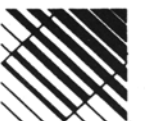
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NLRB Notice Posting Dead... For Now!

For more than three years, the NLRB has unsuccessfully fought to enact a notice posting rule. The rule would have required employers to post the text of the National Labor Relations Act, which governs labor relations in the U.S. Employers protested the proposed rule, stating that it would unnecessarily introduce politics into the workplace. As a result, the proposed rule has been the subject of a number of legal challenges. On May 7, 2013 the D.C. Circuit, the country's second highest court, found that the rule violated employer's free speech as protected by section 8(c) of the act. In addition, the Fourth Circuit found that the NLRB exceeded its statutory powers. The NLRB initially appealed the rulings, however, on January 6, 2014 they threw in the towel and withdrew their appeal. This does not necessarily mean the NLRB has given up on the matter. The NLRB still has the poster available on its website, and is encouraging employers to voluntarily post it. Addition-

ally, the Board is stepping up its outreach program to educate employees of their rights under the NLRA. Moreover, the Board may try again to enforce its notice posting rules when the judicial environment is more favorable.

New Trends Favor Part-Time Work

The government has long provided incentives for employers and employees to perform full-time work. In fact, while the total number of people employed has declined since 2009, the total number of hours worked has remained the same. This means people who are working are working longer hours. However, a number of changes this year may reverse that trend, and we may see a substantial increase in part time workers.

To begin long term unemployment insurance expired in late 2013, and it is unclear whether Congress will once again extend benefits of for how long the extension might last. Thus, it is more than likely that the millions of long term unemployed will lose benefits. The unemployment insurance program itself favors full-time employment since benefits cease employee accepts a part-time position. Thus, many unemployed workers will turn down part-time work, and hold out for a full-time position. With the expiration of benefits many will accept any available positions, including those that are part-time.

Obamacare is also likely to play a part in this trend. Beginning in 201, the Affordable Care Act penalizes employers

(of a certain size) for employing full-time workers who are not offered affordable health insurance to their employees. However, this penalty will not be assessed for part-time employees who work less than 30 hours a week. Thus companies should begin to evaluate their workforce and plan for possible declines in their full-time staff.

New York Law Changes in 2014

Employers need to be aware of a number of changes in New York employment laws that are taking place in 2014. Employers should have already taken into account the increase in New York's minimum wage. On December 31, 2013 the minimum wage in New York increased from \$7.25 per hour to \$8.00. The minimum wage will again increase at the end of this year to \$8.75 per hour.

On January 30, 2014 New York City employers with four or more employees will be required to reasonably accommodate employees' pregnancy, childbirth and other related medical conditions, so long as such accommodations do not represent an "undue hardship." Furthermore, pregnant employees will still need to be able to perform the essential functions of their position. As part of the new law, employers must distribute notice to their employees within 120 days of the law's effective date informing employees of their right to be free from discrimination on the basis of pregnancy, childbirth, or a related medical condition.

On April 1, 2014 New York City employers with 20 or more employees must provide paid sick leave to eligible employees. An employee becomes eligible after he or she has worked for the employer for more than 80 hours in a calendar year either on a full-time or part-time basis. Employees are entitled to one hour of sick leave for every 30 hours worked. Furthermore, employees may not use accrued sick leave until they have worked for their employer for more than 120 days. The law allows employers to limit the use of sick leave to 40 hours in a calendar year.

Finally, there have been a number of changes to New York's unemployment insurance law. Notably, terminated employees may not receive severance payments and unem-

ployment insurance benefits simultaneously if severance payments initiated within 30 days of termination. Once severance payments cease or have been exhausted, the employee may begin collecting unemployment insurance. In October, 2014, the maximum weekly benefit rate will increase from \$405 to \$420. Additionally, effective on January 1, 2014, the wage base for unemployment contributions charged to employers' accounts has been changed. Employer contributions will be assessed on the first \$10,300 of each employee's earnings as opposed to the previous amount of \$8,500.

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



John P. Hanley

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Statement From Stuart S. Zisholtz, Esq.

Delayed Projects

Many contracts executed by a General Contractor or subcontractor, contain a provision that substantial completion will be achieved by a particular date. Some contracts contain clauses that impose penalties in the event the General Contractor or subcontractor do not meet that particular date. As I have written in the past, my suggestion is that where a penalty clause exists, a reward clause should exist if you achieve substantial completion earlier than expected.

The question is what happens if the project is delayed through no fault of the General Contractor or subcontractor? Can delay damages be awarded where there is a substantial completion date or where no date is provided in the contract.

The law is clear that delay damages may be awarded to a General Contractor or subcontractor where the delay is not a result of their own actions. Specifically, a subcontractor must establish, through no fault of its own actions, the project took longer than expected and they have incurred damages.

Moreover, a subcontractor does not have a claim against the General Contractor for delays caused on a project unless those delays are caused by some agency or circumstance under the General Contractor's direction or control. In addition, the subcontractor does not

have a direct claim against the owner for delayed claims unless he has a contract with the owner.

Damages for delays are recoverable where such actions were not anticipated and resulted in additional costs being incurred by the General Contractor and subcontractor. Normally, an extension of time to complete the project will be provided to the General Contractor or subcontractor where a delay has occurred on the project.

It is imperative that you maintain proper books and records to substantiate the various delay damages, including, but not limited to, personnel, insurance, overhead, etc. Providing the proper books and records will go a long way to substantiating your delay claim.

Never let your lien time run out.

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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Public Review Period Announced On Updated Manual D

The ACCA Educational Institute (ACCA-EI) Standards Task Team (STT) announces an American National Standards Institute (ANSI) public review period for the "BSR/ACCA 1 Manual D – 201x, Residential Duct Systems" as a revised and redesignated industry standard. The 45 day public review period started on January 10, 2014 with a comment period deadline of February 24, 2014.

Manual D uses heating and cooling loads to determine space air delivery requirements for residential applications. The Manual D procedures match duct system resistance (pressure drop) to blower performance (as defined by the manufacturer's blower performance tables). This delivers appropriate airflow to the rooms and spaces; while ensuring that system airflow is compatible with the operating range of the HVAC equipment. The capabilities and sensitivities of the Manual D procedures are compatible with single-zone and multi-zone systems. The primary equipment may feature single-, multi-, or variable-speed blowers.

Although the underlying Manual D procedures and processes remain unchanged, the review draft has a number

of updates as compared to the prior 2009 ANSI recognized version. The major changes include:

Design ESP Criteria for ECM Motors: A simpler Friction Rate Work Sheet approach by specifying 0.70 ESP as a maximum design target.

Duct Airway Sizing for Zoned Applications: Specific duct sizing instructions and example problems for zoned systems remain in Manual D. Guidance related to load calculations, selecting zones, zoning equipment, etc. were removed from the Manual D volume; practitioners are pointed to ANSI / ACCA 11 Manual Zr – 2012 (Residential Zoning), which more fully address these topics.

Low Resistance Return Path: Revisions to Group 14 details (pertaining to transfer grilles and transfer duct design) in Appendix 3 of Manual D.

A new Air-Balance Column in the Duct Sizing Worksheet: A new column is added to the Manual D Duct Sizing Worksheet as a useful-information aid for air balancing work.

The review version of the proposed Second Edition of Manual D (dated December 16, 2013), the public review response form, as well as an overview on the major changes can all be downloaded from www.acca.org/ansi. •

The Business Solutions Conference For Indoor Environment Contractors



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