

Insurance Insights

by Ken Furst and Jason Schiciano
Levitt-Furst Associates



The "Scaffold Law" - Only In New York!

TARRYTOWN

Last week I (Ken Furst) was interviewed for 914INC, Westchester Magazine. The publication was writing an article on the abuses of New York Labor Law 240/241, also known as the "Scaffold Law."

During the interview, I commented that Levitt-Furst has been supporting reform of this law for the last 10 years, while the abuse of the law by workers claiming injuries, and plaintiff attorneys, has only continued to grow. New York remains the only state with this type of law.

Here are some key aspects of the law that help explain why the liability insurance rates for contractors in New York are up to four times higher than premiums in other states.

Workers Compensation was created to help the injured employee. It pays for all medical costs the injured employee incurs from the worksite accident, and it pays the employee for lost compensation while unable to work, due to the injury. There are additional significant lump sum payments to seriously injured workers.

Workers Compensation was created to avoid the need for injured employees to have to sue their employers to collect these benefits. It eliminated the inefficiency of having to hire an attorney to prove employer negligence. By cutting-out lawsuits, Workers Compensation efficiently takes care of the injured employee.

Employers are incentivized by the Workers Compensation System to make their jobsites as safe as possible. For a contractor, insurance cost is one of the highest overhead items. Workers Compensation Insurance Premiums directly correlate to the effectiveness of safety practices within the contractor's organization. A contractor that chooses to run an unsafe worksite will see its insurance premiums escalate, due to claims.

The current abuses of the system were created over the last 10-15 years as more and more attorneys in New York realized there was a "loop-hole" that allowed an employee to sue for injuries on a jobsite when the accident was height-related. When Subcontractor employees are injured, instead of suing their employer, which is prohibited due to the existence of

Workers Compensation, they utilize the "Scaffold Law" to sue the building owner, or the General Contractor that hired the Subcontractor.

New York attorneys have pushed the envelope of the definition of "heights" to include: a hammer falling off a ladder, a worker falling into a hole, even an injury from stepping off a stool. And, many judges and juries have supported the broad interpretation.

What makes the abuse of this law even worse is that there is no defense. Labor Law 240/241 creates Absolute Liability on the building owner or General Contractor. Even if the employee is at fault, there is absolutely no defense!

There is no reason to allow this to continue. There is no evidence that this law has made New York a safer place to work. The only evidence is that the "Scaffold Law" makes

"There is no reason to allow this to continue. There is no evidence that this law has made New York a safer place to work. The only evidence is that the 'Scaffold Law' makes New York a more expensive place for contractors to do business, which ultimately increases the costs of living and doing business, for everyone in this state."

New York a more expensive place for contractors to do business, which ultimately increases the costs of living and doing business, for everyone in this state.

Get involved and learn more at www.scaffoldlaw.org. For more information on the proper insurance to defend against Scaffold Law claims, call your insurance broker, or Levitt-Furst Associates, at (914) 457-4200.

Editor's Note: Levitt-Furst Associates is the Insurance Manager for The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and The Mid-Hudson Region. The firm can be reached at (914) 457-4200.



From the Editor's Desk

Hanley's Highlights

by Jeff Hanley

Associate Director, Building and Realty Institute (BRI), *Impact* Editor

Reviewing a Diverse List of Industry Issues

ARMONK

One of the many happy memories from my childhood days in Rye are the summer trips to the former Baskin Robbins Ice Cream Parlor on the southern corner of the city's main thoroughfare, Purchase Street.

The excitement would always grow as I approached the store and its diverse menu of "51 flavors" to choose from. And that journey to the parlor always produced the same question - where on the menu do I look first?

Readers of this issue of *Impact* will probably face that same query. The reports in this edition are quite diverse, as well as informative and noteworthy. And they touch on many issues affecting the building, realty and construction industry.

Those articles include:

- A Centerspread Photo Montage on the many meetings, seminars and social events involving the membership of the Building and Realty Institute (BRI), as well as its staff.
- A Page One report on the need for aggressive and thorough preparation when it comes to all components of the dangers of Carbon Monoxide. The article offers helpful tips for all members of the building, realty and construction industry.
- An *Impact* Consultant/Staff Report and Analysis on the Town of Ossining recently adopting a law which established a four-month moratorium on the review and approval of any zoning, subdivision or variance applications. The Page One analysis reviews all aspects of the action and its effects on town's housing and commercial arenas.

■ An analysis in Insurance Insights on the many negatives of New York State's "Scaffold Law." The report was written by Ken Furst and Jason Schiciano of Levitt-Furst Associates. Levitt-Furst is the insurance manager for the BRI and its affiliate organizations.

■ An article on the Sep. 15 General Membership Meeting of the BRI. The Page One report issues a thorough review of the content of the program, which is scheduled to begin at 6:30 p.m. The conference will be at The Crowne Plaza Hotel in White Plains.

■ Summaries from The National Association of Home Builders (NAHB) on current trends affecting the development and home building sectors.

■ A report on how owners, co-op and condo boards and managers of residential and commercial properties need to prepare for the possibilities of natural disasters. The summary was written by Stuart Bethel, a former director of emergency services for The American Red Cross in Westchester County.

■ An update on the positive reaction to the BRI's Inaugural Vendor Showcase. The showcase, scheduled for Oct. 13 (from 6 p.m. to 10 p.m. at the Crowne Plaza Hotel in White Plains), has drawn great interest from the BRI's membership, as well as many sectors of the building, realty and construction industry. The showcase is also cited in Co-op and Condo Corner. Diana Virrill, chair of The Cooperative and Condominium Advisory Council (CCAC), wrote that analysis. Virrill highlights the many attractive components of the event to boards of co-ops and condos, residents, and property managers of those facilities.

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Co-op and Condo Corner



By Diana Virrill, Chair

The Cooperative and Condominium Advisory Council (CCAC)

Attention Boards of Directors of Co-ops and Condos: Don't Miss the Oct. 13 Vendor Showcase of the Building and Realty Institute (BRI)!

WHITE PLAINS

The Cooperative and Condominium Advisory Council (CCAC) is well-known for its Membership Meetings and Seminars.

Those events provide members of Boards of Directors of co-ops and condos - as well as property managers of those facilities - with informative and educational programs on key topics. The meetings are a valuable and important component of membership in the CCAC.

Being a member of the CCAC allows access to all of the events of our affiliate organization, The Building and Realty Institute (BRI). One such event is quickly approaching - the Oct. 13 Vendor Showcase of the BRI.

The showcase, scheduled to run from 6 p.m. to 10 p.m. at The Crowne Plaza Hotel in White Plains, will feature representatives of virtually every sector of the building, realty and construction industry. Accordingly, members of Board of Directors of co-ops and condos who attend the show will have direct access to a series of companies who can help with the daily operations of their respective facilities.

Examples of the companies who will exhibit at the event are:

- ◆ Builders
- ◆ Remodelers
- ◆ Contractors and Sub-Contractors
- ◆ Service Firms and Professionals Who Serve Residential Buildings and Complexes
- ◆ Property Managers of Residential and Commercial Buildings and Complexes

And there is more. The showcase will also feature Break-Out Presentations and Workshops that will deal with issues affecting the realty sector.

Simply put, it is an event well-worth attending. Imagine having a series of service firms and professionals who can assist your building and/or complex all in one place! Those attending can meet with those firms and directly discuss issues affecting their respective co-ops or condos. The fee for those attending, you ask? There is none. Attendance is absolutely free! And a buffet dinner is included.

Advance Reservations for the showcase are mandatory. CCAC/BRI members - or members of the general public, who are also welcome to attend at no charge - can confirm their attendance to maggie@buildersinstitute.org, or to jeff@buildersinstitute.org. Reservations are also being accepted at (914) 273-0730.

As of late August, a total of 30 exhibitors have reserved for the showcase. They are eager to speak with you and members of your respective boards. Accordingly, we hope to see you at this program on Oct. 13 at the Crowne Plaza Hotel!

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