



From the Editor's Desk

Hanley's Highlights

by Jeff Hanley

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

Summarizing an Edition Filled With A Series of Important Reports

ARMONK

One of the first editors I worked with in my days as a member of the print media consistently used one word when describing the large workload that we faced at extremely busy times - packed.

"We're packed tonight Jeffrey, we are packed," was the phrase consistently said to me by the late Jim O'Toole, a longtime reporter, columnist and editor for the former Gannett Westchester Newspapers. The former chain of publications is now *The Journal News*.

O'Toole, one of the most talented, versatile and gifted members of the print media that I ever worked with, would most definitely issue the "packed phrase" to describe this edition of *IMPACT*. There are many important reports for members of the building, realty and construction industry in the issue. They include:

- ❖ A Page One report on The Builders Institute (BI)/Building and Realty Institute (BRI) starting a lawsuit that challenges The New York Housing Stability and Tenant Protection Act (HSTPA). The story was written by Finger and Finger, A Professional Corporation. Finger and Finger is Chief Counsel to the BRI and its affiliate organizations.
- ❖ A Page One analysis of the proposed "Good Cause Eviction" law for New York State. Finger and Finger, the authors of the analysis, provide an excellent overview in the report on the many negatives of the proposal.
- ❖ A Page One report on the recent appointment of Tim Foley of Scarsdale as the new Executive Director of the BI/BRI. Foley started in his new position on Jan. 2.
- ❖ A Page One story on the move of "Construction Conversations with The Building and Realty Institute (BRI)" to Talk Radio 77WABC. The program made its debut on 77WABC - one of the largest stations in the Tri-State region - on Feb. 8. It airs every Saturday from 8 p.m. to 8:30 p.m.
- ❖ A Page Two report in Insurance Insights on New York's "Stop Hacks and Improve Electronic Data Security Act," also known as the "Shield Act." The noteworthy analysis is of importance to all businesses. The summary was written by Ken Furst and Jason Schiciano, co-presidents of Levitt-Furst Insurance. Levitt-Furst Insurance is the Insurance Manager for the BI/BRI and its component associations. The deadline for compliance with the act is Mar. 21, 2020. Again, all businesses need to review this important article.
- ❖ An analysis in Counsels' Corner that reviews the many negative results of the enactment of The Housing Stability and Tenant Protection Act (HSTPA) on Jun. 14, 2019 by the N.Y. State Legislature. The excellent summary was written by Finger and Finger.
- ❖ A report on the BI/BRI sponsoring more than 52 meetings, seminars and networking events during 2019 for its members. The programs addressed issues of importance to the building, realty and construction industry in the Westchester and Mid-Hudson Region, as well as the New York Tri-State Area. The events also covered topics of interest to the general business community and provided a series of valuable networking opportunities.
- ❖ An article reviewing that builder confidence in the market for newly-built, single-family homes across the U.S. is still strong. The assessment was contained in the latest National Association of Home Builders (NAHB)/Wells Fargo Housing Market Index (HMI) that was released on Feb. 18. The index said that the level of builder confidence decreased by one point to 74 in February. NAHB officials said that the last three monthly readings of the index mark the highest sentiment levels since December of 2017.
- ❖ A report in Tech Talk on the importance of testing new Web Sites before they are launched. Andrea Wagner, the principal of Wagner Web Designs, wrote the study.

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The Home Buying Desires of Millennials Mirror The Silent Generation, Realtor Report Stresses

WASHINGTON, D.C.

A number of the homebuying characteristics of younger millennials are replicating the buying desires of those in the silent generation.

That was the assessment in the latest study from The National Association of Realtors (NAR), the 2020 Home Buyer and Seller Generational Trends Report. The study researched each generation to examine the differences of recent homebuyers and home sellers, NAR officials said.

The NAR report found that, despite the obvious age gap between millennials and those that make up the silent generation, the two groups are likeminded in terms of buying preferences. Among both age groups, proximity to friends and family is a high priority, with 53 percent of homebuyers between the ages of 22 to 29 and 74 to 94 listing this as a major factor that would influence their decision in selecting a neighborhood, the report said.

"The silent generation - older Americans who are typically grandparents and great-grandparents - for years have prioritized living near family and other loved ones," said Lawrence Yun, NAR's chief economist. "But it was surprising to see younger millennials with homebuying preferences and ideals similar to older segments of the population."

A total of 33 percent of home sellers aged 74 to 94 said the primary reason for selling their previous home was to move closer to friends and family, a deviation

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Building and Realty Institute (BRI) Starts Lawsuit Challenging The New York Housing Stability and Tenant Protection Act (HSTPA), Continued from p. 1

ability to maintain, repair, renovate and improve their multi-family rental housing by various means.

These include the elimination of rent increases when an apartment is vacated; eliminating High Rent and High Income Decontrol; virtually eliminating the ability of a landlord to recoup its complete expenses incurred in undertaking Major Capital Improvements (MCI's), as well as Individual Apartment Improvements (IAI's); and limiting the ability of a landlord to make a reasonable return on its investment and lowering the value of the multi-family buildings. The landlords state that the HSTPA will reduce the quality and quantity of affordable housing in the 21 ETPA communities in Westchester that adopted ETPA and that without the income that has now been denied them the multi-family housing will deteriorate in the coming years, to the detriment of both tenants and landlords and the local communities by reason of increased certiorari proceedings.

The legal action also claims that the HSTPA is arbitrary and capricious in that it violates the United States' Constitution's 14th Amendment's Due Process clause in that the government has interfered with the private right to contract. The HSTPA is alleged to affect a physical as well as a regulatory taking in violation of the Constitution.

Specifically the Complaint alleges that "the HSTPA imposes significant regulatory restrictions and in addition requires Plaintiffs to rent their property at rates often far below market-based rates, while denying the Plaintiffs the right to choose their own tenants as well as placing limits on rent increases and the recovery of investments in improvements, as well as a reasonable return on investments and investment expectations."

The Complaint alleges that the harmful effects of the HSTPA are not limited to multi-family rent regulated buildings, but also detrimentally impact cooperatives and other property owners. Among other things, neither landlords nor cooperatives can require more than one month's security deposit, thereby requiring the rejection of marginal tenants and shareholders who might be accepted if security was deposited to secure timely payment of rent. The HSTPA also limits the ability to investigate the past payment court history of a prospective tenant or shareholder, which would increase the risk of a landlord or cooperative accepting a person with a negative payment history. HSTPA also delays the ability to collect overdue maintenance, rent and additional charges.

The Complaint seeks to have the HSTPA declared to be an unlawful violation of due process; that it unlawfully interferes with constitutional protections and that it effects a physical and regulatory taking without due process.

Further information on the lawsuit can be obtained by calling the BRI at (914) 273-0730, or Finger and Finger at (914) 949-0308.

Editor's Note: The authors are attorneys with Finger and Finger, A Professional Corporation. The firm, based in White Plains, is Chief Counsel to the BRI and its component associations.

Insurance Insights

by Ken Furst and Jason Schiciano

Levitt-Furst Insurance



New York's "SHIELD ACT" - A Noteworthy Reminder of The Importance of Having Cyber/Data-Breach Liability Insurance

TARRYTOWN

Does Mar. 21, 2020 mean anything to you?

If you are a business in New York, this is the deadline to comply with New York's "Stop Hacks and Improve Electronic Data Security Act," or the "SHIELD" Act. Compliance requires any business maintaining "...computerized data which includes private information of a resident of New York shall develop, implement and maintain reasonable safeguards to protect the security, confidentiality and integrity of the personal and private information including, but not limited to, disposal of data."

Importantly, the SHIELD Act broadens notification obligations by expanding the definition of information, which if breached, or possibly exposed, could trigger notification obligations. Previous law defines "personal information" as: "any information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify such natural person."

The SHIELD Act adds requirements for protection of "private information," and may require notification to individuals if their "private information" was - or may have been - breached. "Private information" includes accessed/breached, or simply unencrypted and potentially exposed data, such as:

Social Security Number; driver's license number; account number, credit or debit card number (when accompanied by security code/password, etc.); biometric information (e.g., fingerprint from fingerprint time-clock); a user name or e-mail address in combination with a password or security question and answer that would permit access to an online account; or any unsecured protected health information.

For small businesses (those with fewer than 50 employees, less than \$3 million in gross annual revenue, or less than \$5,000,000 in assets), compliance with the law requires that their personal/private information data security safeguards are appropriate for the size and complexity of the small business, the nature and scope of the small businesses' activities, and the sensitivity of the personal information that the small business handles.

Businesses not defined as "small" (as previously stated) have more specific, onerous requirements. The law provides that the state's Attorney General can impose various fines for violations of the SHIELD Act.

There are several points to consider, in light of the new SHIELD Law requirements:

All businesses (even small businesses, and not-for-profits) - including landlords, condos, co-ops, property managers, contractors, developers, etc., - retain/store some amount of personal/private information on people, such as tenants, unit owners, shareholders, and/or employees.

"Cyber/data-breach crimes are no longer crimes that you can ignore because your business is "not big enough" to be a target, or your business "doesn't have much personal data." A 2018 Verizon Data Breach Investigations Report advised that 58 percent of cyber-attack victims were small businesses with less than 250 employees."

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City of Peekskill Awarded Over \$3 Million in N.Y State Grants

PEEKSKILL

The City of Peekskill has been awarded more than \$3 million in New York State Grants, including \$2,285,000 from the state's Consolidated Funding Application (CFA) program, officials recently announced.

The grants will fund a variety of important projects, including the reconstruction of Fleischmann Pier, designs for a waterfront trail and shoreline stabilization along the Hudson River and McGregory Brook, and round two of the city's Microenterprise Program, officials added.

In 2011, Gov. Cuomo created ten Regional Economic Development Councils (REDC) and the Consolidated Funding Application (CFA) to advance the administration's efforts to improve New York's business climate and expand economic growth. The CFA, which streamlines and expedites the grant application process, marks a fundamental shift in the way state resources are allocated, ensuring less bureaucracy and greater efficiency to fulfill local economic development needs, according to spokesmen.

The Mid-Hudson REDC received a total of \$65.8 million for 105 projects in 2019, officials said, including three projects for the City of Peekskill:

Reconstruction of Fleischmann Pier

A total of \$2,000,000 was awarded for the Phase One Reconstruction of Fleischmann Pier, with a \$665,000 city match. Located on the Hudson River at Charles Point Park, the pier will provide docking for larger vessels and will also include a kayak dock, gangways, benches, lighting fixtures and viewing stations. The project will complement the city's Local Waterfront Revitalization Program by enhancing water-based recreational amenities and supporting tourism by creating docking for large vessels, officials said.

The Local Planning Committee of the Downtown Revitalization Initiative may recommend that the state fund the phase two components of the reconstruction, which include floating docks and various park improvements, so that the entire project can be constructed at one time, officials added.

"I sincerely thank Governor Cuomo and the State for selecting Peekskill for almost \$3 million in additional CFA funding and for

recognizing the great potential Peekskill is successfully tapping into," said City of Peekskill Mayor Andre Rainey. "With local stakeholders working together, as well as a forward-thinking administration, committed staff and City Manager, the City of Peekskill is continuously thriving. The reconstruction of Fleischmann Pier will increase opportunities for tourism. As the Governor mentioned, we're unique to have such an asset like the Hudson River. Peekskill is growing, and importantly, we're committed to sustainable tourism."

Southern Waterfront Trail Connection and Shoreline Stabilization Design

The City of Peekskill received \$85,000 to prepare designs for the final segment of the City's waterfront trail and shoreline stabilization along the Hudson River and McGregory Brook in Riverfront Green Park. The design will utilize bioengineering techniques to reduce erosion and address risks associated with climate change, officials said.

The project will implement the city's Local Waterfront Revitalization Program and Southern Waterfront Trail Master Plan by enhancing Riverfront Green Park and developing the final link in the city's nearly three-mile waterfront trail system, officials added.

Second Round of the Microenterprise Program

An additional \$200,000 grant was awarded to administer the second round of the city's Microenterprise Program. Further details on the program will be announced in the spring, officials said.

Rainey added: "I am proud of Peekskill's rich diversity and openness toward people of all faiths, nationalities and backgrounds. The Microenterprise Program will assist in giving everyone an opportunity to succeed."

In addition to the CFA funds, the City of Peekskill also received a \$750,000 grant through the New York State Environmental Facilities Corporation toward the reconstruction of a \$3 million sewer line on Lower South Street, which is expected to preserve capacity and allow for future development, according to officials.

New York's "SHIELD ACT" - A Noteworthy Reminder of The Importance of Having Cyber/Data-Breach Liability Insurance, Continued from p. 2

If your business possesses such data, the SHIELD Act applies, and you need to check with your computer/data/systems provider/consultant to make sure you are in compliance with SHIELD Act requirements for properly safeguarding such data, and have a plan in place to address a breach, or potential exposure, of the information.

The enactment of this new law, combined with the ever-increasing number of cyber/data-breaches occurring every day to businesses large and small, is further reason to include a robust, comprehensive cyber liability/data-breach insurance policy in your insurance program.

Your Business Owner's Policy (BOP) or Package Policy (i.e., the policy that covers property and general liability claims) may offer an endorsement that adds coverage for cyber/data-breach. Be advised - often, cyber/data-breach coverage added by endorsement to a BOP or Package policy, is not comprehensive. The endorsement may contain only limited coverage (for instance: coverage for expenses associated with recovering your systems

and data after a cyber-attack, or paying a ransom for a cyber-extortion event).

A comprehensive cyber/data-breach policy will also pay liability-related expenses, such as expenses for breach notification letters, credit monitoring, and regulatory investigation expenses, fines, and penalties (i.e., expenses that could typically be associated with a data breach response, as required by the SHIELD Act).

Cyber/data-breach crimes are no longer crimes that you can ignore because your business is "not big enough" to be a target, or your business "doesn't have much personal data." A 2018 Verizon Data Breach Investigations Report advised that 58 percent of cyber-attack victims were small businesses with less than 250 employees.

Many Building and Realty Institute (BRI) members, insured by Levitt-Fuirst Insurance, have already experienced a cyber/data-breach crime. Several of our clients have suffered cyber/data-breach claims with costs that exceeded \$100,000, and even \$500,000.

Unfortunately, we've had a couple of clients that

declined cyber/data-breach insurance, and then suffered cyber-attacks, which were uninsured. A reminder - your company's general liability and umbrella liability policies will not cover cyber/data-breach claims.

The arrival of the SHIELD Act, and its March 21, 2020 compliance deadline, is a blunt reminder that cyber/data-breach insurance should no longer be considered an "optional" or "only for big companies" insurance coverage, but rather a policy equally as important as your business's fire, general liability, or auto insurance.

For information on the insurance matters reviewed in this article, contact your insurance broker, or Levitt-Fuirst Insurance, at (914) 457-4200.

Editor's Note: Levitt-Fuirst Insurance is the Insurance Manager for The Builders Institute (BI)/Building and Realty Institute (BRI) of Westchester and The Mid-Hudson Region. Ken Fuirst and Jason Schiciano are Co-Presidents of the company. The firm is based in Tarrytown.

Foley Appointed Executive Director of The Builders Institute (BI)/Building and Realty Institute (BRI), Continued from p. 1

tions disallowing the use of charitable funds to offer relief for taxpayers straining with the new cap on the State and Local Tax (SALT) deduction at the federal level; supporting local community efforts to respond to both the problematic response by Con Edison to the March 2018 nor'easters; advocating for adequate funding for the Metro-North Railroad in the next MTA Capital Plan; and spreading public information on options to adapt to Con Edison's moratorium on new natural gas services.

Prior to his work with Assembly Member Paulin, Foley was the Director of the Service Employees International Union (SEIU) Connecticut State Council, which includes six affiliated locals representing more than 65,000 active and retired members, making it the state's largest union. In that capacity, Foley also served on the Coordinating Committee for Protect Our Care CT, a campaign that supports comprehensive, high quality, affordable and accessible health care for all Connecticut residents.

For nearly a decade, Foley was first the Communications Director and then the Political Director for the Committee of Interns and Residents/SEIU Healthcare, a labor union for resident physicians training in safety-net hospitals in California, Florida, Massachusetts, New Jersey, New Mexico, New York, and the District of Columbia, including the resident physicians at Westchester Medical Center. Foley sat on the Steering Committee for the Metro New York Health Care for All Campaign, a New York City-based multi-constituency health care justice coalition,

as well as for the Save Our Safety-Net Campaign, a community-labor coalition that focuses on the issue of hospital closures that disproportionately affect lower-income families and communities of color.

In 2014, Foley served on the Public Health Committee for the Transition Team for Newark Mayor Ras Baraka. He was also a member of the Paid Sick Days Advisory Committee for the Department of Consumer Affairs for the City of New York. Foley was also a delegate to the Westchester-Putnam Central Labor Body. Foley currently serves on the Village Planning Board of Scarsdale and previously served on the Advisory Council on Human Relations. He is also the President of the Scarsdale Forum, a not-for-profit volunteer organization in existence since 1904. The organization seeks to provide a platform for meaningful community dialogue about municipal, school and related civic affairs.

Foley replaces Albert Annunziata, who has retired. Annunziata served as Executive Director of the BI/BRI from December of 2001 to December of 2019. Annunziata is currently serving as a Consultant to the BI/BRI, association officials said.

The BI/BRI is a building, realty and construction industry membership organization. The association, based in Armonk, has more than 1,800 members in 14 counties of New York State. Those members are involved in virtually every area of the building, realty and construction industry. The BI/BRI is one of the largest business membership organizations in New York, association officials said.

Element 46 Incubator Program Finds New Home for 2nd Cohort at Robert Martin Company Offices

ELMSFORD

Westchester County's Element 46 incubator program has a new home for its latest cohort of budding entrepreneurs.

Officials recently announced that Element 46's startups will be located at new workspace at Robert Martin Company's headquarters at 100 Clearbrook Drive in Elmsford. Robert Martin is leasing to the county 1,500 square feet of fully furnished, wi-fi equipped space for the duration of the 6-month incubator program.

"We are grateful to Robert Martin Company for providing this beautiful new space for our incoming cohort. This is the kind of exciting environment that encourages collaboration and inspires innovative thinking," said Westchester County Director of Economic Development Bridget Gibbons.

"We believe initiatives such as Element 46 are a critical pathway for continuing to reinvest in an already strong economy," said Greg Berger, president of Robert Martin Company, addressing the 11 startups at the new workspace. "We look forward to the day when we can lease you larger space because your businesses have grown beyond your wildest dreams."

Greg Berger said it was fitting that Robert Martin is providing work space for entrepreneurial ventures, noting that the founders of the company - Robert Weinberg and Martin Berger - were true entrepreneurs who turned a small homebuilding company into what is today, the largest commercial real estate company in the county.

"Nurturing entrepreneurs is as much about the critical one-on-one interactions with experienced business owners and executives as it is about providing the infrastructure and tools to alleviate those initial challenges of launching a new venture," said Laurence Gottlieb, managing director of Robert Martin Company's life sciences and health technologies initiative, RMC Bio1. "Mingling the cohort with our team will absolutely create new and exciting business opportunities for all of us."

Gottlieb will be RMC's point person for Element 46, officials said. Element 46 incubator provides training, mentoring, free workspace and access to pro bono services from professionals to enable startups to develop their businesses within a network of peers. Entrepreneurs are embedded in an existing start-up community within Westchester, officials said.

Spokesmen added that Mentors assist the startups chosen for the program by offering their expertise, time and support. Mentors are hand-picked leaders with specializations in technology, finance, business strategy, venture capital, marketing or other thought leaders.

Tech Talk

The Noteworthy Importance of First Impressions

By Andrea Wagner, President, Wagner Web Designs, Inc DELRAY BEACH, FL

If the Iowa Caucus taught us anything, it is that first impressions can make a difference.

Douglas Jones, a computer scientist at the University of Iowa, was one of many who warned for weeks that maybe it wasn't such a good idea to introduce a new technology at such a critical time - with the eyes of the nation on the first presidential voting of 2020.

The phone app - which apparently was not fully tested - and its failures during the caucus will likely cause future attempts to use the app and convince users it is fixed, reliable and accurate to be closely watched.

The same is true for Websites that get launched without proper testing. Sites that get newly built and launched should have a soft launch - a term used for launching a product service or store without announcing it to the public. Let inter-office employees, friends and relatives view the site first.

Even the best of Web Designers may miss a broken link, or the owner did not proofread thoroughly. Websites that have forms to fill out, online directories, and shopping carts are even more vulnerable to inconsistencies across all platforms, devices and browsers.

Even after a site is tested and launched, browser or software updates can cause a perfectly functioning Website to fail. If one customer is lost because they get stuck on your Website, that is one too many. I suggest monthly checkups for your site. Fill out your contact form and make sure you receive. Google Search your site and click through each page.

Some sites are vulnerable to malware attacks which will redirect your site to a pharmaceutical site. I have had recent customers have this problem. One way to combat this is to have your Web Designer install SiteLock, or some Security Monitoring Software that alerts you when page content has been modified. Your hosting company has these as add-ons and I highly recommend utilizing the products in your website.

Editor's Note: Andrea Wagner is President of Wagner Web Designs, Inc. The company specializes in optimized, small business Websites and Digital Marketing. Questions to Wagner can be directed to (914) 245-2626.

