

IMPACT

BUILDING & REALTY NEWS

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Nilsen Named President of the Building and Realty Institute (BRI)

By Jeff Hanley, IMPACT Editor

WHITE PLAINS – Ken Nilsen of Pelham has been elected president of the Builders Institute (BI)/Building and Realty Institute (BRI) for 2007, association officials recently announced.

Nilsen, a member of the BRI since 1984, was officially elected at the organization's Board of Trustees' meeting on Jan. 4 in White Plains.

A well-known member of the area's building and realty industry, Nilsen takes office after serving 10 years as chairman of the BRI's Apartment Owners Advisory Council (AOAC).

In that role, Nilsen helped the AOAC represent and serve its 300 owner and manager members. Those members are responsible for more than 25,000 rental units in the Westchester and Mid-Hudson Region.

While chair of the AOAC, Nilsen served on many of the association's sub-committees. He was also a member of the BRI's Board of Trustees.

Prior to starting his own firm, Nilsen Management Company of Yonkers, Nilsen was a project manager for Tippetts Abbet McCarthy and Stratton. He earned his Bachelor of Arts Degree in Civil Engineering at Northeastern University and his Masters of Science Degree in Operations Research at New York University (NYU).

Vice Presidents are Elected

BRI officials also announced the election of the association's vice presidents.

Those elected were:

- Bob Bossi, chair of the Home Builders Advisory Council (HBAC) of the BRI. Bossi, a member of the BRI since 1977, is entering his fourth term as chair of the HBAC.
- Eric Messer. Messer is chair of the BRI's Remodelers Advisory Council (RAC). Messer, a member of the BRI since 1987, has served on several

sub-committees of the association. He has been a member of the BRI's Board of Trustees since 2002.

- Ed Lashins, chair of the Commercial Builders Advisory Council (CBAC) of the BRI. A former president of the BRI, Lashins has served on many of the association's sub-committees.
- Jerry Houlihan. Houlihan is chair of the BRI's Apartment Owners Advisory Council (AOAC). Houlihan, entering his first term as AOAC chair, served as vice chair of the association from 1997 to 2006. He has also been a member of several of the organization's sub-committees.
- Diana Virrill. Virrill is chair of the Cooperative and Condominium Advisory Council (CCAC) of the BRI. She is serving her fourth term as chair of the CCAC.
- David Amster. Amster, a member of the BRI since the 1980's, is chair of the

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Upbeat Economic Outlooks Could Be Inaccurate, Analyst Stresses

By Jeff Hanley, IMPACT Editor

WHITE PLAINS – The bright outlook for the national economy projected by many analysts may not be accurate, a leading economist recently told members of the building and realty industry.

Dr. Irwin Kellner, chief economist for North Fork Bancorporation and a well-known economic analyst, stressed to industry representatives last week that there are enough negative indicators to possibly thwart the upbeat projections.

Kellner issued that evaluation at the Jan. 11 General Membership Meeting of the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI). More than 70 industry members attended the event at the Crowne Plaza Hotel in White Plains.

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Photo by Barbara S. Hansen

The Jan. 11 General Membership Meeting of the Building and Realty Institute (BRI) focused on economic prospects for 2007. Pictured at the meeting are, from left to right, Ken Finger, chief counsel, BRI; Ken Nilsen, president, BRI; Dr. Irwin Kellner, economist, speaker; Vincent Mutarelli, BRI member; and Albert Annunziata, executive director, BRI.

Novel Methods in Building/Financing Affordable Housing to Be Examined at February 8 Building and Realty Industry Conference

By Jeff Hanley, IMPACT Editor

WHITE PLAINS – "Innovative Ways to Build and Finance Affordable Housing" is the topic of the Feb. 8 General Membership Meeting of the Building and Realty Institute (BRI).

Tom McGrath, vice president of Community Preservation Corporation

(CPC), will be the guest speaker at the meeting, which is scheduled to be held at the Crowne Plaza Hotel in White Plains. The conference is scheduled to start at 6:30 p.m., event officials said.

CPC is a nationally recognized leader in helping developers finance

and build affordable multi-family housing. Each project CPC becomes involved in reflects the "firm's commitment to help developers succeed at strengthening communities," company officials said.

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CO-OP CONDO CORNER

BY HERB ROSE



Participation Produces Positive Results for Your Co-op or Condo

NEW YORK – “You will lose \$995 if you do not attend the annual meeting on Feb. 18, 2007.”

Strong stuff about a strong subject that affects all co-op and condo owners is observed by very few. A reasonable person who will go from shop to shop to get the best deal on an iPod, TV, or what have you will expend many hours and infinite energy looking for bargains. This motivated individual will often complain of “not enough time” to go to an annual meeting or read the financial statement or other co-op/condo communications, although multi thousands of dollars are involved!

Noteworthy Increases

The year 2006 probably shocked more co-op and condo owners with maintenance increases than any time in recent memory. One condo, which makes up its maintenance shortfall with an assessment, projects an assessment for 2007 double that for 2006.

Maintenance increases of 20 to 30 percent are not unusual in many buildings.

Common reaction to the shocking escalation of maintenance charges for 2007 is to remove the existing board and elect a new group. Unfortunately, this changes nothing since the underlying problems include property tax raises and higher utility costs. Plus, a long list of rising operational costs will now confront the new board.

A treasure trove of ideas and resources is squandered by the inattention and lack of basic knowledge by most owners and/or shareholders. At the very least, more information and participation would make for a better community and a happier environment. Repair costs can be reduced by the participation of responsible owners.

One common, expensive action is the propping open of various doors between the vertical frame and the door with any kind of object. The misalignment of an elevator door by this method can cost \$500

to \$1000 to repair! Ordinary apartment doors or the door to the laundry or garbage room can create undue repair cost as well.

Recently, I vacationed on a Caribbean Island and participated in a very illuminating experience. After consuming some wrapped snack food, I looked for a place to dispose of the packaging rubbish. Our guide said to drop it on the ground so that it would provide work for persons who are so employed! Rubbish disposal is expensive and it behooves occupants of our buildings to dispose of waste properly, including candy wrappers, cigarette packages etc.

Getting back to the treasure chest of participation ideas, a situation I came upon involved the key for the entrance to a health club. So many copies of the key were made and distributed that an overwhelming number of unauthorized people entered and used the facilities, many irresponsibly. A particularly bright shareholder at a finance meeting suggested using a key card instead of keys.

Locking out unauthorized key holders worked for a good amount of time, but only until a

large number of purloined key cards were in circulation. Periodic changing of the key card reader and cards worked to eliminate unauthorized cards by requiring new authorized key cards for entrance. The

mosphere and ultimately higher property values based on desirability. Meager attention and participation in co-op and condo business is expensive—and negative.

“Large participation in co-op and condo affairs makes for a better living and community atmosphere and ultimately higher property values based on desirability. Meager attention and participation in co-op and condo business is expensive—and negative.”

cost of this security procedure was minimal.

A Priceless Result

Everyone has seen the Master Card advertisement—“Xmas tree, \$25, Ornaments, \$85, Full House, Priceless!”

Transcribed to co-op and condo management that ad would read something like “Maintenance, \$1,439, Parking Space, \$135, Majority Attendance at Annual Meetings, Priceless!”

Large participation in co-op and condo affairs makes for a better living and community at-

Herb's Hints:

- 1) Happy New Year!
- 2) Are you overpaying your Con-Ed bill? Fax me a copy at (212) 244-1883 and I'll check it for you (at no charge!).

Editor's Note: Herb Rose is a co-op and condo consultant. Rose also serves on the board of directors of the Co-operative and Condominium Advisory Council of Westchester and the Mid-Hudson Region (CCAC). To reach the CCAC, call (914) 273-0730. Rose can be reached at hrose47563@aol.com.

THE HANLEY REPORT

By Jeff Hanley
IMPACT Editor/
Associate Director,
Building and Realty Institute (BRI)



Out with the Old and In With the New – Already!

ARMONK – The beginning of yet another year brings to mind a favorite phrase of my late grandmother, Ethel Hanley.

Grandma Hanley, as members of my family would always call her, quite often would tell us how the passage of time reaches an unbelievably quick pace as the years go by.

“Take the summers for example,” she would say. “As you get older, you realize that they are really nothing more than long weekends!”

That assessment came to me as our staff prepared this issue, specifically our special “Year in Review” photo section.

It truly seems unbelievable that another year has come and gone. But it has, and the proof of that— as well as the many industry programs that the Building and Realty Institute (BRI) offered in 2006— is in the middle section of this edition.

As you'll see, building and realty industry members received a series of timely and important meetings and seminars from the BRI last year.

Our regular features are also contained in this issue, as well as some other interesting reports. They include:

- A solid Co-op and Condo Corner column by Herb Rose. The article stresses the importance of participation from co-op and condo residents in the matters of their respective buildings and complexes.
- An important report in Counsels' Corner. Representatives of Finger and Finger, chief counsel to the BRI, review arbitration procedures affecting the employer members of the BRI in their business matters with Local 32-BJ Service Employees International Union (SEIU).
- A timely article from the law firm of Welby Brady and Greenblatt on Green Building Requirements. Builders, de-

velopers, contractors, suppliers and owners should read the story. It contains important information to industry members and their businesses.

- A Page One story on the election of Ken Nilsen of Pelham as president of the BRI for 2007. Nilsen, a member of the association since 1984, is certainly no stranger to building and realty industry members. He has provided the industry with a noteworthy level of service, specifically as chair of the BRI's Apartment Owners Advisory Council (AOAC) from 1997 to 2006. The report also summarizes the elections of other key BRI officers for 2007.



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On behalf of our staff and myself, have a happy, healthy and prosperous new year. And, as difficult as it is, please try and find the time for the

good things in the new year. Remember Grandma Hanley's advice because, before you know it, another year will have flown by.

Enjoy the issue!

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Case Study:

Examining the Specifics of Green Building Requirements

By Welby Brady and Glenblatt, LLP

WHITE PLAINS — Environmental concerns have significantly impacted the face of today's construction industry.

As recently as 30 years ago, such concerns may have invoked little more than thoughts of rain at the jobsite. Today however, such concerns are truly business concerns, of which a prudent contractor, supplier, owner or developer, must be aware.

From Land Use Restrictions and Disposal Mandates, to Tax Credits and Insurance Coverage, the environmentally related considerations affecting today's business environment are numerous and continuously evolving.

This article addresses the recently evolving impact of environmental concerns on building requirements. Specifically, this article addresses so-called "Green Building Requirements."

Though passing familiarity with the term "Green Building" is presumed, an exact definition for the term is not. Accordingly, for the purposes of this article, Green Building is the claimed practice of:

1. Increasing the efficiency with which buildings and their sites use and obtain energy,

"Those contractors, suppliers, owners and developers outside of New York City believing that the LEED standards will not affect them should reconsider. Numerous municipalities have either already enacted Green Building Requirements, or are in the process of enacting such requirements."

realize the claimed benefits will not be collectively taken unless: 1. mandatory or, 2. such actions improve a business' profitability.

Specifics

First addressing profitability, while implementation of certain Green Building Designs or materials may increase total project cost by one to seven percent, the technological advances incorporated by way of green building have proven to strengthen a business' bottom line.

In fact, a recent study conducted for the State of California concluded that, on average, green buildings deliver a return on investment 10 times the additional costs associated with green building.

Accordingly, from advances in energy efficiency to cost reductions associated with recy-

sign ("LEED") standards.

Local Law 86 will apply to those capital improvement projects which involve the construction and/or rehabilitation of a building where the total anticipated costs of the improvement exceed \$2 million; installation or replacement of a boiler or HVAC system projects which exceed \$2 million; installation or replacement of lighting systems projects which exceed \$1 million; and, installation or replacement of plumbing systems projects which exceed \$500,000.

With regard to private sector projects, Local Law 86 will apply where the project receives a minimum of \$10 million or 50 percent of the estimated project cost from the City treasury.

Considering the anticipated \$12 billion effect on construction of Local Law 86 over the City's 10-year capital plan, it is clear that the Local Law 86 will have a major impact in promoting green design and building techniques throughout New York's construction industry. Moreover, it is equally clear that Local Law 86 will competitively favor those contractors, suppliers, owners and developers familiar with the LEED standards. Accordingly, familiarity with the LEED standards is necessary.

Under the standards, four levels of certification exist, described as either "Certified," "Silver," "Gold" or "Platinum." The rating level is determined by the number of points the project receives under a checklist developed by the U.S. Green Building Council. In order to achieve a "Certified" rating, a project must score between 26-32 points; for Silver, between 33-38 points; for Gold, 39-51 points; and for Platinum, between 52-69 points.

The points are linked to such categories as "Sustainability," "Water Efficiency," "Energy and Atmosphere," "Materials and Resources," "Indoor Environmental Quality" and "Innovation and Design Process." While the ultimate receipt of certification is the responsibility of the project architect, engineer or other LEED specialist assigned to the project, clearly, the contractor, supplier, owner or developer who can provide a "greener" service and/or product is in the best position to outperform the competition.

Those contractors, suppliers, owners and developers outside of New York City believing that the LEED stan-

dards will not affect them should reconsider. Numerous municipalities have either already enacted Green Building Requirements, or are in the process of enacting such requirements.

Examples of municipalities that have adopted LEED, or have otherwise required that city-owned buildings be built according to green building criteria, include Atlanta, Austin, Boston, Boulder, Chicago, Dallas, Los Angeles, Portland (Oregon), San Diego, San Francisco, San Jose and Seattle. Clearly, a

trend has been established.

Accordingly, Green Buildings and the related LEED standards developed by the United States Green Building Council are topics which all contractors, suppliers, owners and developers should be aware if they wish to remain commercially competitive in years to come.

Editor's Note: Welby Brady and Greenblatt LLP is a long-time member of the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI). The firm is based in White Plains.

Upbeat Economic Outlooks Could Be Inaccurate

Continued from page 1

"Pessimism is not the word to describe the economic outlook for 2007, if you believe the Wall Street Sector, the Washington economists and business representatives," Kellner said. "But there are inconsistencies, from what I see, in the upbeat views. All this unbridled optimism should be examined more carefully."

The reasons for that assessment, Kellner said, include:

- An unclear projection on who will help to pick up the economy. "The problem," he said, "is that the average household has spent more than it has earned for seven consecutive quarters." He added that the average household is ready to decrease its spending to keep more in line with its income.
- The hazy outlook on energy prices. "We're all enjoying the current level of lower energy prices, but there could still be a cold winter ahead," he noted.
- His view that the stock market is in for some turbulence in 2007. "I'm saying it and you're hearing it — I just don't like the stock market this year," Kellner said.
- A lack of decisive action in the weeks ahead on the part of the Federal Reserve regard-

ing interest rates.

- The element of the unexpected. "It's not the things you see, but something that is completely unexpected that can change things and make a difference," he stressed.

- A projected drop on the retail front. "Shopping centers will not do as well this year as they did in 2006, since consumer spending is down," Kellner said.

On other issues, Kellner stressed that:

- Affordable housing continues to be a major issue for the New York metropolitan region. "It provides the real estate industry with a challenge — finding ways to build affordable housing while convincing people that there is a place in their respective areas for affordable housing," he said.
- Some economic areas will experience positive scenarios in the year ahead. They include Health Care, Technology, Commercial Real Estate, The Bio-Tech Sector, Defense, Homeland Security, Assisted Living Divisions and the Commercial Real Estate Market. "Rising rents, positive foreign investments and solid sales prices will all help to keep the commercial real estate market strong," he noted.

February 8 Building and Realty Industry Conference

Continued from page 1

CPC officials said that the company serves as a borrower's ally and "one-stop shop," guiding the project from deal inception to project completion. CPC spokesmen noted that the company is sponsored by 80 prominent banks and insurance companies. The company, officials added, has financed more than 114,000 new or rehabbed units.

"We are very happy to hear the message that CPC will be bringing to members of our in-

dustry — one of helping to build and finance affordable housing for our region," said Albert Annunziata, executive director of the BRI. "We urge our membership to attend this meeting and hear what will be a timely and important message."

The meeting is open to all BRI members. It is also open to non-members. BRI officials said that full details on the event will soon be mailed to BRI members, as well as non-members.

Under Local Law 86, New York City's capital projects, as well as private capital projects receiving city funding, must meet certain green building standards contained in the United States Green Building Council's Leadership in Energy and Environmental Design ("LEED") standards.

water and materials; and

2. Reducing building impacts on human health and the environment, through better siting, design, construction, operation, maintenance, and removal.

Discussions

Proponents argue that the practice of Green Building leads to such benefits as reduced operating costs (by using less energy and water), improved public and occupant health (due to improved indoor air quality), and reduced environmental impacts (by utilizing less natural resources, lessening storm water runoff and lessening the "heat-islands" associated with urban environments).

Surely, few readers of this article will disagree that the above human and environmental byproducts of Green Building, if realized, are indeed benefits to the community.

Equally as sure however, is that the actions necessary to

cling, it is inevitable that the implementation of certain Green Building techniques will benefit contractors, suppliers, owners and developers. Increasingly however, regardless of profitability, the implementation of green building techniques by a contractor, supplier, owner and developer will not be voluntary, but rather mandatory.

Examples

An example of the shift toward mandatory Green Building is Local Law of the City of New York for the Year 2005 No. 86, also known as the "LEED Law" or "Local Law 86", which takes effect on January 1, 2007.

Under Local Law 86, New York City's capital projects, as well as private capital projects receiving city funding, must meet certain green building standards contained in the United States Green Building Council's Leadership in Energy and Environmental De-

Arbitration and How to Deal With Union/Employee Issues

COUNSEL'S CORNER

By: Kenneth J. Finger,
Carl L. Finger and
Daniel S. Finger,
Finger & Finger, Chief Counsel,
Building & Realty Institute (BRI)



WHITE PLAINS — In a recent article we discussed the issue of a troublesome employee and how an employer can prepare itself to deal with this situation.

The article discussed the concept of progressive discipline and the importance of a “paper trail.” We left off at the end with a note that we would discuss arbitrations in the future. This article will be the first in a series of articles regarding arbitration.

Arbitration is a voluntary contractual agreement by parties to resolve their disputes without going to a court and within the context of a mechanism that they themselves select. It can generally be much faster than litigation and substantially less expensive, both in terms of legal and other fees.

A Key Agreement

However, it should be noted that with arbitration, the parties pay the arbitrator. It involves the parties agreeing to submit their disputes to an impartial party for determination which determination is generally final and binding. The Building and Realty Institute’s (BRI’s) Collective Bargaining Agreement with Local 32-BJ Service Employees International Union (SEIU) contains just such a clause. We hope to provide the reader with the benefit of our experience, having collectively engaged in many arbitrations over the years.

Generally, arbitrations are a mechanism used by the union, on behalf of an employee, to challenge action (or inaction) by an employer. While occasionally an employer might want to use the arbitration procedure, that is rare and is not the subject of this article. An agreement to arbitrate can be limited or broad. The arbitration clause in the Local 32-BJ contract bears review and we will set it forth. We ask that the reader keep this clause in mind now and in regard to any future articles. The following is the relevant clause in the BRI-Local 32-BJ Collective Bargaining Agreement:

Arbitration, Discipline, Discharge and Eviction

A. Arbitration

1. Any dispute, controversy or grievance arising under the agreement between the parties or between any Employer or Employer-member of the Association (BRI) and the Union or any of its members shall first be submitted in writing by the party claiming to be aggrieved to the other within 45 days for discharges or suspensions and

120 days for other grievances except for fund delinquencies. Fund delinquencies must be brought within six years of their occurrence.

a. Step 1 – Within 10 days of notice of the grievance the business representative of the Union and the Employer, or its representative, shall meet to discuss a resolution of the grievance. If no agreement is reached at this step, the parties may simultaneously proceed to step 2 and step 3.

b. Step 2 – The parties shall make their best efforts to schedule meetings on the first Tuesday of each month between representatives of the BRI and the Union, for the purpose of discussing resolutions of grievances that have not been resolved at Step 1. Nothing herein shall preclude either party from submitting a grievance that has not been resolved at Step 1 to arbitration under Step 3.

c. Step 3 – Either party may within 30 days of Step 1 submit the grievance to a contract arbitrator who shall be appointed from a rotating panel of arbitrators agreed to by the Union and the BRI. The Arbitrators shall be Bernard Young, Amy Itzla, Ron Betso and Martin Ellenberg. The Union shall, to the extent practicable, provide an expeditious process for administering arbitrations, including for rotation of appointments among the panel of arbitrators, and shall provide quarterly information on said rotation to the BRI. The arbitrator shall be empowered to hear the dispute and make a final decision therein, binding upon the parties, in accordance with the laws of New York State. Successor or additional arbitrators shall be appointed by mutual agreement of the Union and the BRI. In the event of the removal, death or resignation of an arbitrator, a successor or temporary substitute shall be chosen by the Union and the BRI.

2. Failure to follow these time limits shall be deemed a waiver of the grievance.

More Detail

3. No more than one adjournment per party shall be granted by the arbitrator without consent of the opposing party. In the event of a default by any of the parties hereto in appearing before the designated arbitrator, after written notice, the arbitrator is hereby authorized to render a decision upon the testimony of the party appearing. The parties waive the provision of Section 7506(a) of the Civil Practice Law and Rules. The Employer

or the Union shall bear any expense caused by its nonappearance at one or more scheduled arbitration hearings, as long as sufficient and adequate notice has been served on them.

4. Subdivision (d) of Paragraph Fourth is a part hereof as if fully set forth herein.

5. An employee shall not be penalized or discriminated against for attending, when re-

quired, arbitrations, hearings or other matters pursuant to the Union constitution. Any grievant attending grievance meetings or arbitrations shall be paid their regularly scheduled hours during such attendance. When such need for the employee’s attendance ends, the employee shall return to complete his/her regularly scheduled work day.

B. Discipline, Discharge & Eviction

1. No employee who has completed his trial period shall be discharged, dispossessed or evicted without good and just cause, and then only in compliance with this paragraph.

2. In the event of a discharge, the Employer shall

give notice in writing in accordance with his expressed intent that the services of an employee are not desirable setting forth the reasons.

3. The Employer waives its rights under Section 713 of the Real Property Actions and Proceedings Law of New York in so far as it shall apply to Superintendents, Janitors or other persons occupying or possessing premises as part of their compensation or remuneration for or incidental to their employment until the issue of good and just cause has been decided. The Employer shall not remove from the premises any of the personal belongings of the said employee, until the issue of good and just

Continued on page 9

Builders, Remodelers

**Membership in The BRI Could Be
The Best Investment You Ever Made.
Just ask the 1,700 Members of
The Building & Realty Institute (BRI).**

**A Statewide Political
Action Committee
with Clout
Supporting candidates
who support industry
objectives**

**The Oldest and Largest
Industry Force
Members include
Homebuilders,
Remodelers,
Service Trades and
Professionals**

**Educational Programs
on Bread &
Butter Topics.
More Than
70 seminars and
conferences
in 2006**

**“Growth” AD
Campaigns to Shape
Public Opinion**

**Litigating for Land Use
and Housing Issues
\$150,000+ spent in
achieving landmark legal
decisions in N.Y.S.**

**Big Savings on N.Y.S.
Workers’ Compensation
Over \$5 million in annual
dividends to 1,000+ members**

The BRI is supported by an annual budget of \$825,000. It has a professional staff of 10, including consultants and a distinguished board of directors—the BRI works for you on building and realty issues that affect your bottom line. The association has top flight consultants and legal/legislative/engineering experts on land-use, community planning, sub-division approval, building codes, affordable housing and state regulatory agencies. Consultants are based in Albany working for positive state legislation.

Yes, I am interested in a membership investment in the BRI, a building and realty industry and professional association with over 60 years of growth, service and performance. Please send an application.

Name _____ Title _____
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Building and Realty Institute (BRI)

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Members of: Urban Land Institute, Washington, D.C • N.Y. State Business Council, Albany, N.Y.

Building and Realty Institute (BRI) Hosts its Annual Holiday Reception

By Jeff Hanley, *IMPACT* Editor

TARRYTOWN – More than 160 representatives of the local building, realty and construction industry attended the Building and Realty Institute’s (BRI’s) annual Holiday Reception on Dec. 14.

Held at Abigail Kirsch at Tappan Hill in Tarrytown, the event helped participants mark the holiday season, as well as a year of the BRI’s industry activities.

Carl DiMaio, event chair-

man, and Albert Annunziata, executive director of the BRI, served as co-masters of ceremonies.

“The reaction to the entire evening was tremendously positive,” said DiMaio, a past

BRI president. “Those who attended the event said it was one of the best social events the BRI has ever had.”

A photo montage of the evening is featured below:



Carl DiMaio, event chairman, is pictured while welcoming participants to the reception.



Albert Annunziata, executive director of the BRI.



Albert Annunziata (left), executive director of the BRI, and long-time BRI member Dolph Rotfeld are pictured during the dinner portion of the event.



Pictured at the event’s reception are, from left to right, Myron Marcus, associate counsel, BRI; Maria Gluckman; Saul I. Gluckman, past president, BRI; and Lee Ann Marcus.



Pictured after the dinner portion of the evening are, from left to right, seated, Vera Esposito; Darlene Esposito; Jill LaRocque; and Lana Pateman. Pictured standing, from left to right, are, Richard Esposito, Doug Esposito, Brett LaRocque and Chris Pateman.



The reception period of the event provided an opportunity for networking. Pictured during the period are, from left to right, Dorothy Finger, counsel, BRI; Phyllis Lashins; Ed Lashins, past president, BRI; Cliff Davis, member, BRI; and Ken Fuirst, Levitt Fuirst Associates, insurance manager, BRI.

Photos by Barbara S. Hansen

2006: The Year

JANUARY/FEBRUARY



Westchester County Executive Andy Spano (left) is pictured while delivering his presentation at the BRI's General Membership Meeting of Jan. 19. Also pictured are, from left to right, Albert Annunziata, executive director, BRI; Gus T. Boniello, past president, BRI; and Myron Marcus, associate counsel, BRI.

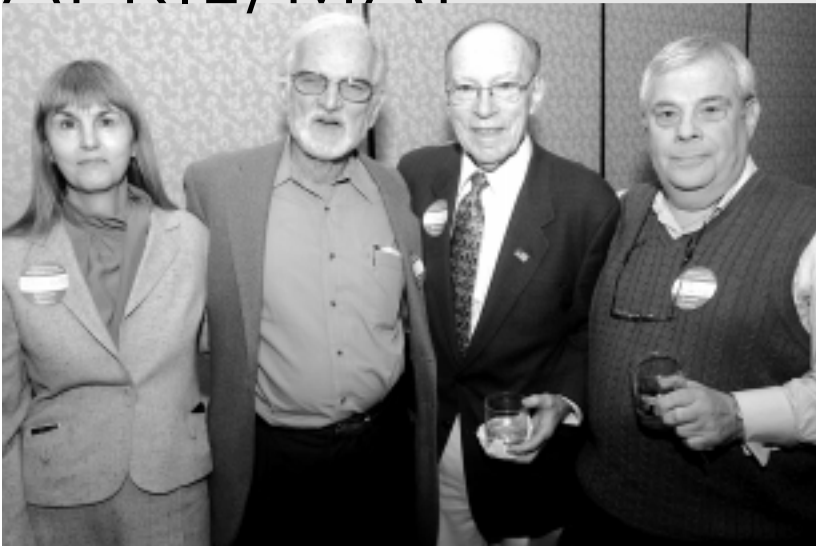


A lively question-and-answer session was part of the Feb. 6 General Membership Meeting of the CCAC. Pictured during the session are, from left to right, Jeff Hanley (program moderator), associate director, CCAC; Donna Harrison (speaker), manager, River Ridge Owners Corp.; Bill Ploski (speaker), a representative of the New York State Division of Human Rights; and Carl Finger (speaker), Finger and Finger, chief counsel to the CCAC.



Pictured during the reception of the Feb. 6 General Membership Meeting of the CCAC are, from left to right, Pamela Bruderman, program participant; and Jane Curtis, vice chair, CCAC.

APRIL/MAY



DISCUSSING COMMUNICATION ISSUES – “Examining the ‘We vs. Them’ Mentality Between Shareholders/Unit Owners and Co-op/Condo Boards” was the topic of the April 24 General Membership Meeting of the Cooperative and Condominium Advisory Council (CCAC). Pictured at the meeting are, from left to right, Jane Curtis, vice chair, CCAC; Herb Rose, board member, CCAC; Myron Marcus, associate counsel, CCAC; and Stan Alexander, board member, CCAC.



EXAMINING LAND USE ISSUES – “Zoning, Land Use and The Abuse of Municipal Power – Recent Cases and Trends” was the topic of the May 11 General Membership Meeting of the Building and Realty Institute (BRI). Pictured at the meeting are, from left to right, John Marwell, Esq., speaker and counsel, BRI; Carol LaGrasse, speaker, Property Rights Foundation of America; Stephan B. Gleich, Esq., speaker; and Ken Finger, program moderator, and chief counsel, BRI.

SEPTEMBER



“Perspectives on Building and Real Estate” was the topic of the Sept. 14 General Membership Meeting of the Building and Realty Institute (BRI). Pictured at the conference are, from left to right, Albert Annunziata, executive director, BRI; Larry Pontillo (speaker), regional representative, U.S. Small Business Administration; Susan Habel (speaker), commissioner of planning, White Plains; and Gus T. Boniello, past president, BRI. More than 60 BRI members attended the conference at the Crowne Plaza Hotel in White Plains.



DISCUSSING INDUSTRY TOPICS— The Sept. 14 General Membership Meeting of the Building and Realty Institute (BRI) covered a range of perspectives on building and real estate in the Westchester and Mid-Hudson region. Pictured are Susan Habel, commissioner of planning, White Plains and Alex Roberts, BRI member.

OCTOBER



The Cooperative and Condominium Advisory Council (CCAC) held its General Membership Meeting on Oct. 16. The meeting reviewed the Building and Realty Institute's new labor contract with Local 32-BJ, as well as liability issues associated with storm damage. Pictured, from left to right, are Mark Schmaier, speaker, Levitt-Fuirst Associates; Sarah Hughes, CCAC board member; Jason Schiciano, speaker, Levitt-Fuirst Associates; and Jane Curtis, vice chair, CCAC.



The Builders Institute (BI) sponsored a seminar on Sept. 19 on Flashing Applications for residential and commercial construction processes. Pictured at the seminar are, from left to right, Albert Annunziata, executive director, BI; Andrew Visser, speaker, Grace Building Materials; Carl DiMaio, past president, BI; and Eric Messer, chair, Remodelers Advisory Council of the BI.

In Review

A LOOK BACK AT 2006

By Jeff Hanley, IMPACT Editor

ARMONK – Continuing its tradition of providing information and education to its members, The Builders Institute (BI)/Building and Realty Institute (BRI) sponsored more than 70 meetings and seminars in 2006.

The conferences reviewed issues affecting members of the building, realty and construction industry. The BI/ BRI, which commemorated its 60th anniversary last year, has more than 1,700 members in 14 counties of New York State.

“Whether it was for builders, developers, contractors, sub-contractors, renovation companies, suppliers, pro-

fessionals, property owners, co-ops and condos, owners of rental apartment buildings or property managers, we feel we reviewed key issues affecting our members and the industry in a thorough manner,” said Albert Annunziata, executive director of the BRI.

The photo montage on these pages reviews some of the meetings and conferences that the BI/BRI sponsored.

The meetings involved the BRI and its component groups, the Apartment Owners Advisory Council (AOAC), the Cooperative and Condominium Advisory Council (CCAC) and the Advisory Council of Managing Agents (ACMA).

AT THE WINTER OLYMPICS— Pat Beldotti, a longtime member of the Board of Trustees of the Building and Realty Institute (BRI), is attending the Winter Olympics in Torino, Italy. Beldotti is pictured above in the top row, seventh from the left, wearing a skull cap. Beldotti, a former vice president of the BRI, is chairman of Tri-Global Sports of Ossining. Tri-Global Sports assists athletes from developing nations in their quests to compete in the games. The organization helped Robel Teklemariam of Ethiopia reach the Torino Games.

JUNE



Pictured after the CCAC’s June 19 conference are, from left to right, speakers Jason Schiciano, Alex Roberts, David Singer, Tom DeChillo, Jessica Barry and Donna Harrison. The seminar covered maintenance issues.



Photos by Barbara S. Hansen

Pictured at the conclusion of the awards ceremony are, from left to right, past BRI presidents Joseph Baratta, Martin Berger, John DeRosa, Carl DiMaio, Doug Esposito (representing Past BRI President Richard Esposito), Marc Gerber, Saul I. Gluckman, Bill Hallenbeck, Ed Lashins, Sam Rivellini, Richard Syracuse, Robert Weinberg and Gus T. Boniello at the BRI’s 60th Anniversary Commemoration on June 2.



Doug Esposito (left), board member, Building and Realty Institute (BRI), is pictured with Darlene Esposito and Eric Lashins, right, a BRI board member, at the BRI’s 60th Anniversary Dinner on June 2.



Pictured after the awards presentations are, from left to right, past Building and Realty Institute (BRI) presidents Ed Lashins, Gus T. Boniello, and Saul I. Gluckman at the BRI’s 60th Anniversary Commemoration on June 2.




Ed Burke, Eastern Area Manager for the Western Red Cedar Association, makes a point during a 90-minute primer-seminar on the characteristics of durable wood. Burke covered a broad range of issues covering siding and decking grades, proper installation, finishing, painting, staining and various uses and applications of western red cedar. This was the second in a series of Builders Institute (BI) continuing education seminars at the Mount Kisco Holiday Inn last spring.

NOVEMBER



AN ECONOMIC REVIEW - Marc Goloven, a leading economist in the New York metropolitan area, was the guest speaker at the Nov. 9 General Membership Meeting of the Building and Realty Institute (BRI). Goloven provided an economic update and reviewed the effects of economic conditions on the building, realty and construction industry. Pictured during the meeting at the Crowne Plaza Hotel in White Plains are, from left to right, Gus T. Boniello, past president, BRI; Tom DeCaro, board member, BRI; Goloven; Albert Annunziata, executive director, BRI; and Ken Finger, chief counsel, BRI. More than 75 building and realty industry members attended the event.



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Prudential Rand Launches New Commercial Division

Rella appointed Director of Operations

WHITE PLAINS — **Prudential Rand Realty recently announced the launch of Prudential Rand Commercial Services, a new division that, according to company spokesmen, will serve the commercial real estate needs of the Hudson Valley.**

Company spokesmen said the move will “solidify the firm as a leader in the regional real estate marketplace.”

The new division is an expansion of the firm’s existing commercial services. It will be anchored by 13 sales associates stationed throughout the company. Fred Rella has been named the director of operations to oversee the commercial division’s brokers and daily procedures.

“Prudential Rand Commercial Services is an exciting new entrant into the commercial field. Our team has expertise and experience in industrial, office, multi family residential, and condo/coop conversion, as well as environmental remediation, mortgage financing and title insurance,” said Greg Rand, managing partner. “This enables us to bring all of these talents to the table to find

creative solutions for our clients. Many of our clients have portfolios that are diverse, and include different property types. They have experienced frustration in the past because no one company could speak intelligently about the whole portfolio. Now, we can.”

For more than 30 years, Prudential Rand has been an industry innovator in the marketing and selling of area homes, company officials said. Spokesmen added that Prudential Rand Commercial Services will utilize all the resources in technology, operational support, marketing and management, in addition to 21 branch offices throughout the region and 700 residential brokers sourcing leads and product.

“We are using the residential company as a springboard, but each of our commercial professionals is totally and exclusively dedicated to commercial real estate,” said Paul Adler, executive director of Prudential Rand Commercial Services. “This is not a hybrid of residential and commercial, but two strong companies that share a common professionalism, and a base of resources.”

GDC Promotes Two Executives

VALHALLA – Ginsburg Development Companies (GDC) recently announced the promotion of two executives:

*Andy Maniglia, vice president, development. Maniglia was hired in 2000 as director of development and chief government affairs officer, where he worked out of the corporate office in Valhalla. In his new position, Maniglia will work closely with the executive team at the corporate office and head up and oversee all developers and their approval work. Maniglia is a Valhalla resident.

*Gary Lowitt, vice president, acquisitions. Prior to his appointment, Lowitt served as director of acquisitions and development for the Rockland-area office in Pomona. In his new role, Lowitt will work out of the corporate office and be in charge of seeking new acquisitions in GDC’s current markets. He will also oversee the

examination of new markets that may have potential for GDC development. Lowitt resides in New York City.

Current GDC communities include Riverbend in Peekskill; The Fairways at Wallkill (N.Y.); Harbors at Haverstraw; Hudson Pointe in Poughkeepsie; Ichabod’s Landing in Sleepy Hollow; Marbury Corners in Pelham; Liberty at Newtown (Conn.); Ridgewood at Middlebury (Conn.) and The Greens at Gillette Ridge in Bloomfield (Conn.).

GDC, established in 1964 and based in Valhalla, is one of the nation’s premier full-service real estate design, development and management companies. Martin Ginsburg is the president and chief executive officer. GDC has developed more than 10,000 residential units during its 40-year corporate history, spokesmen said.

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Arbitration and How to Deal With Union/Employee Issues

Continued from page 4

cause has been determined by arbitration as herein provided. This provision, however, may be waived by the Union.

4. Should the arbitrator find that the employee was discharged for good and just cause, the arbitrator may in his discretion extend the employee's time to vacate for a period not to exceed 30 days from the receipt of the award by the Union and the Employee.

have to look at the breadth of the arbitration clause. This clause is fairly broad, and refers to "any dispute, controversy or grievance arising under the agreement."

One would have to go pretty far to think of a situation that was not included, although we have had such situations. For example, if an employee says that he was injured on the job and applies for Workers Com-

"Arbitration is a voluntary contractual agreement by parties to resolve their disputes without going to a court and within the context of a mechanism that they themselves select. It can generally be much faster than litigation and substantially less expensive, both in terms of legal and other fees."

5. The Union agrees to request the employee to vacate the premises within the time fixed by the arbitrator.

6. If an employee fails to vacate his/her apartment within 30 days after his/her discharge or, in the case of a disputed discharge, 30 days from an arbitrator's award sustaining such discharge, \$1,500 per month may be deducted from any final compensation due the employee. The payment of the \$1,500 shall not be deemed to create a landlord-tenant relationship but rather shall be deemed part of the determination of the final amount owed to the employee.

Further Scenarios

7. No employee shall be discharged, evicted or laid off, nor his employment in any other manner terminated, by the Employer by reason of the hiring or employing of any partner of the Employer, any shareholder, stockholder, officer or director of the corporate Employer, or any member of the family or any individual Employer or of any partnership Employer, co-owner or member of a family of a partner, shareholder, stockholder, officer or director of any corporate Employer.

8. In the event a terminated employee is reinstated pursuant to an arbitrator's award or a settlement between the Union and the Employer, the Employer may, upon reinstating the discharged employee, lay off the replacement employee notwithstanding that he or she may have been employed in excess of his or her trial period.

Closer Looks

In this first article, since the question of the existence of a collective bargaining agreement is a given herein, we

pensation payments, that does not arise out of the agreement and is covered by Workers' Compensation.

The Workers Compensation issues are outside the Collective Bargaining Agreement. However, if the employee claims that he did not receive the proper vacation, or his pay was wrong, or he was disciplined improperly, those are all issues that are for an arbitrator.

What's Ahead

We shall, in future articles, discuss these various issues, including disciplinary arbitrations. These are somewhat unique because when an employee is discharged, for example, the burden on proving the "just cause" or "good cause" is on the employer, and the burden of proof can be a significant obstacle. This means, among other things, that the employer has to put its "evidence" in first, and establish what we attorneys call a "prima facie" case. This means that the employer has to, at the outset, prove that it has sufficient grounds for the discharge before the employee (union) is obligated to respond.

We shall continue in future articles with such issues at timeliness, arbitrability, and specific issues such as discipline, suspension and discharge and other issues which can be arbitrated, such as work rules, directions to perform work, safety, proper pay and benefits and the like.

To be continued!

Editor's Note: The authors are attorneys with Finger and Finger, A Professional Corporation. The firm is based in White Plains. Kenneth J. Finger is chief counsel to the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI).



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Realtors Elect Board, MLS Officers/ Directors for 2007

WHITE PLAINS — The members of the Westchester County Board of Realtors, Inc. have elected Realtor Harding Mason of the Katonah office of Houlihan Lawrence Inc. as president for 2007, board officials recently announced.

Board spokesmen also announced that the shareholders of the Westchester-Putnam Multiple Listing Service, Inc. elected Realtor Mark Boyland of the White Plains office of Keller Williams NY Realty as MLS president for 2007.

The elections were held at the 90th annual meeting of the Board of Realtors on Nov. 2 at the Westchester County Center in White Plains. Both presidents and their fellow officers and directors were officially installed at a ceremony on Dec. 13. Those elected took office on Jan. 1, 2007 for their respective one-year terms.

Board of Realtors

Mason is an associate broker who has been affiliated with the Katonah office of Houlihan Lawrence Inc. since his initial real estate licensure in 1988. He has served as a vice president and secretary-treasurer of the board. He has also served as an officer of the Westchester-Putnam Multiple Listing Service. Mason also represents the Westchester board as a member of the Executive Committee of the New York State Association of Realtors (NYSAR) and as a director of the National Association of Realtors (NAR).

Mason graduated from Boston University, where he studied English and further pursued an interest in theatrical production and lighting design before moving to Westchester and entering the real estate business. He and his spouse Lynn Conway Mason, also a Realtor, reside in the Waccabuc area of the Town of Lewisboro.

Other board officers elected with Mason are: First Vice President Devin Willacy of Century 21 Fortunato Realtors, Yonkers; Second Vice President John Kope of Keller Williams NY Realty, Yorktown Heights; and Secretary-Treasurer Leah Caro of Bronxville-Ley Real Estate LLC, Bronxville.

The Westchester County Board of Realtors is a member-

ship organization of nearly 7,900 licensed real estate professionals and members of allied real estate professions doing business in the Westchester County region. The board provides real estate education to its members and the public, offers mediation and arbitration services, publishes a newspaper, operates a commercial division and advocates for real property rights, among other services and activities. It is the majority shareholder of the Westchester-Putnam Multiple Listing Service, a separate New York corporation whose other shareholder is the Putnam County Association of Realtors.

Multiple Listing Service

Boyland is an associate broker affiliated with the White Plains office of Keller Williams NY Realty. He has served as treasurer of the Westchester-Putnam MLS. He has held other officer positions with the MLS and will serve as a 2007 director of the National Association of Realtors (NAR). Boyland graduated from SUNY New Paltz with a major in communications and a concentration in media production, and entered the real estate business in 1996. He and his spouse Beth and two young children reside in Bedford.

Other MLS officers elected with Boyland are: Vice President Kevin O'Shea of American Classic Homes, Inc., White Plains; Vice President William Reilly of Frances Billingsley Realty, Inc., Katonah; Vice President Edward Scrivani of Coldwell Banker Currier & Lazier, Carmel; Secretary Sharlene Forman of Peter J. Riolo Real Estate, Hastings; and Treasurer Sylvia Woods of Regency Homes Realty, Inc., Mount Vernon.

The Westchester-Putnam Multiple Listing Service, Inc. maintains a database of properties listed by more than 1,000 participating offices and more than 9,000 individual Realtors doing business in Westchester, Putnam and Dutchess counties. Listed properties may be viewed on several Web sites, including www.Realtor.com and www.wcbr.net.

Nilsen Named President

Continued from page 1

association's Advisory Council of Managing Agents (ACMA). He is serving his first term in that role. He recently served as chair of the BRI's Negotiating Committee in the association's Labor Contract Negotiations with Local 32-BJ Service Employees International Union (SEIU).

The Chair and Secretary-Treasurer

BRI officials also announced that Gus T. Boniello has been appointed Chairman of the association. Boniello served as

president of the BRI from 2004 to 2006.

BRI spokesmen also reported that Susan Fasnacht was re-elected Secretary-Treasurer of the association. Fasnacht has been in that role since 2000.

The BRI is a building, realty and construction industry membership organization. The association, which commemorated its 60th anniversary in 2006, has more than 1,700 members in 14 counties of New York State. The organization is based in Armonk.

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