

QBBA BULLETIN

the newsletter of The Queens & Bronx Building Association



16-66 Bell Boulevard #745, Bayside, NY 11360 • 718-428-3369 • fax 718-428-3494 • queensbronxba.com

End of Winter
2016

5/4: Have Your Say At NYSBA Lobby Day!

All the changes in Albany make it even more important this year to represent our industry to those with the power to make change. On



Wednesday, May 4th, construction professionals from all over the state will converge to make our voices heard! We have made progress in many areas, but as policies change daily we need to keep our issues in the forefront, hence our New York State Builders Association annual effort.

There may be carpools available. Contact June at (718) 428-3369 for reservations and questions.

Cranes & Elevators a Part of DOB Construction Safety Conference May 4

The Department of Buildings' Build Safe/Live Safe Conference on Wednesday, May 4th from 8 am to 4 pm will be held at the New York Marriott Downtown, 85 West Street. In this day-long series of seminars, DOB experts will discuss industry trends and highlight safe construction operations. Up to 4.0 Professional Credits are available: Safety Report Card; Protection of Existing Buildings During Construction (1.50 LU/HSW); Building Safe: Common Safety Violations in Excavation, Superstructure, and Scaffolding Work (1.25 LU/HSW); Safety Considerations for Renewable Energy Systems (1.25 LU/HSW); Concrete and Formwork in NYC (1.25 LU/HSW); Planning for Safety: Common Errors and Omissions in Site Safety, Support of Excavation and Demolition Plan Submissions (1.25 LU/HSW); Cranes, Hoists, and Elevators Safety (1.25 LU/HSW); and Facades and Retaining Walls (1.25 LU/HSW). Admission (transferrable but not refundable) includes breakfast and lunch. For information, visit nyc.gov/buildings, click on the "About" tab, and then click on "News & Events".

Eric Enderlin, HPD Deputy Commissioner Our Guest on Wednesday, April 20th

If you want to be in the know, mark your calendar for April 20th when our guest will be Eric Enderlin who oversees HPD's Office of Development. Divisions include New Construction, Preservation Finance, Housing Incentives, Preservation Disposition Finance, Supportive Housing, Building and Land Development Services (BLDS), Storm Recovery, and Credit and Underwriting. Among other initiatives, Mr. Enderlin has primary responsibility for the housing production goals of the Housing New York Plan and related pre-development work. In addition, Eric ensures that the Office of Development is closely coordinated with other critical functions of the agency, including Neighborhood Strategies, Planning, Code Enforcement, and Asset Management. Mr. Enderlin is also an Adjunct Assistant Professor of Urban Planning at the NYU Wagner Graduate School of Public Service.

Prior to working at HPD, Enderlin was Assistant Director for Asset Management and Private Market Operations at NYCHA. He worked as a consultant with the Louis Berger Group in its Economics Department, and served as Principal Planner and land use mediator with the New Jersey Council on Affordable Housing (NJ COAH). Eric holds a B.A. in Economics and a M.S. in Urban Planning and Policy. The meeting is at Marina del Rey in Throgs Neck. RSVP:

Updates to Crawler Crane Regulations Continue

Since the most recent crane collapse on February 5th, the City has continued to review and modify its safety regulations. On February 7th, new rules ordered to cease operations and secure equipment when winds are forecast to exceed 20 mph or gusts to exceed 30 mph, and that the City's cranes be inspected by the DOB before they are put back into service. Fines were increased from \$4,800 to \$10,000. On February 24th, Mayor de Blasio and Buildings Commissioner Rick Chandler announced the creation of a technical working group that will review and recommend new City policies to improve crane safety. On March 15 DOB updated interim crane regulations that, with some exceptions, bar any crawler crane required by its manufacturer to shut down in winds of less than 20 mph, such as the crane configuration that collapsed in February. 30 mph is the latest wind protocol as of March 15. See related article on page 13.



Calendar Of Events...

Apr. 20 Wed., 6 pm	General Membership Dinner Meeting Marina del Rey, Throgs Neck Speaker: Eric Enderlin, Deputy Commissioner, NYC Housing Preservation & Development
May 4 Wed.,	NY State Builders Assoc. Lobby Day (Note: New Date!) Renaissance Albany Hotel, Albany
May 26 Thurs.	QBBA Annual Golf Outing North Hills Country Club, Manhasset, LI 10:30 am Registration followed by Brunch 12 noon Shotgun Tee Off 5:30 pm Cocktail Reception & Sumptuous Dinner (Play & stay through the day, or just come to dinner!)
June 15 Wed., 6 pm	General Membership Dinner Meeting Donovan's Grill & Tavern, Bayside (718) 423-5353
Sept. 21 Wed., 6 pm	Officer Installation & Dinner Meeting Marina del Rey, Throgs Neck
Oct. 20 Thurs., 5:30 pm	QBBA Annual Trade Show La Guardia Marriott, East Elmhurst
Info/Reservations: e-mail june@queensbronxba.com or fax: (718) 428-3494	

QBBA BULLETIN

QBBA Bulletin is the newsletter of the Queens & Bronx Building Association. For information regarding content and advertising, please contact our Executive Director, June Petrone, at our association headquarters, 16-66 Bell Boulevard, #745, Bayside, NY 11360, (718) 428-3369, fax: (718) 428-3494, e-mail: june@queensbronxbba.com. Visit www.queensbronxbba.com

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News from the President



Peter Florey, D & F Development Group

A quick update on what is happening (and not happening) in the world of building and development affecting Queens and the Bronx right now.

In the world of the “not happening” we have 421a. This much beleaguered piece of legislation is going nowhere at the moment.

The 421a tax abatement program, which is a cornerstone of Mayor de Blasio’s push for 200,000 units of new and preserved housing over a ten year period, ended at the beginning of this year and shows no sign, at least publicly, of being resurrected. The off-the-record talk is that something will happen before the end of June. If not, it probably won’t be resolved for another year, in which time the absence of the program will put the brakes on thousands of potential new affordable units in the City. Whether the City and State can resolve their differences is anybody’s guess, but don’t be surprised if we see a new tax abatement program emerge from the ashes covering affordable units.

On another front, watch out for HPD’s new design guidelines which we are told are coming out any day now. This will be the first time since 2000 that we have seen changes to the guidelines and they will likely be significant. Be on the lookout for guidelines that permit the design of smaller residential units and caps on the maximum size of new units. Don’t be surprised if they lift, as they should, the cap on the percentage of studio apartments that can be built. Right now, that limit is 15%. This should be welcome news for those building affordable housing.

For those of us looking to finish projects this summer, keep an eye on what is happening with Con Ed. Word is that they are having labor issues and a strike this summer would bring service to a grinding halt. So plan ahead if you are going to be getting COs in June.

Folks, there is a lot at stake in Albany regarding legislation and about causes we need to promote. At the top of the list is fight against the Scaffold Law. While it remains to be seen if we can get traction on this in an election year, we are now within striking distance of getting major reform to this legislation. But it won’t happen unless we make our voices heard. So, I encourage you to come with us on Lobby Day, May 4th, and be heard.

Remember, we get our strength by showing up in numbers. In addition, it is a chance to get caught up with people in our industry and to really make a difference with the elected officials in Albany.

News from NY State Builders Association

NYSBA, the state chapter of the National Association of Home Builders (NAHB) and your QBBA has announced that NY State has approved its new residential code without a new fire sprinkler mandate. The Code Council recently gave final approval to the new 2015 Residential and Energy Codes in NY. Opponents did not bring forward any proposals to add a fire sprinkler mandate for single family homes or town homes, meaning that fire sprinkler mandates are off the agenda for at least the next three years. NYSBA lobbied for options, not a mandate.

City Government Update

by Robert S. Altman, Esq., QBBA Legislative Consultant

All politics is local. It is a famous phrase, popularized by former House Speaker Tip O’Neill. And almost always it is right.

But when it comes to New York politics of late and the dance of a Governor, Mayor, and former U.S. Senator, local politics plays out in national aspirations.

New York has three players on the national stage today. Most prominent is Hillary Clinton, the lead Democratic candidate for President, and maybe the favorite overall. (Given that I feel this is the least impressive slate of candidates in my lifetime, that is not exactly saying much.) In many respects, Clinton sets in motion a series of tussles that are not local in nature between the Governor and the Mayor.

Currently, Governor Cuomo is in the second year of a second four year term. It is almost the perfect time for him to run for President. But Cuomo cannot. He is stuck as governor behind a former New York Senator, who really was not from New York but became a New Yorker because of her role on the national stage as the wife of a President. This is not to say Hillary Clinton was a poor Senator. By all reports she was a good one, earning praise on both sides of the aisle (although her ability to reach across to the Republican Party and get things done seems to be an anathema to a certain set of the Democratic Party). But in no way can we ever say that Candidate Clinton was elected under the “all politics is local” mantra.

And Cuomo is stuck behind Clinton at what would be the perfect time to run for President. A very successful first term. A landslide victory in his gubernatorial reelection campaign. And also praise for taking a dysfunctional legislation and actually making it work again. Yes, I know many consider the State legislature a disaster, but do you really want to remember the Mario Cuomo-Pataki-Spitzer-Paterson years where a budget never passed on time and major initiatives often floundered. Cuomo got and gets many things done. Maybe he got them done with a bunch of ethically-challenged rubes, but in a way, that should make the accomplishment even more appreciated. So Cuomo looked like a good national candidate, if it weren’t for Hillary Clinton. And being a good soldier, Cuomo deferred to her rather than have two New Yorkers in the race and probably harm the chances of both. And that should win him points should Hillary Clinton get elected.

But then along comes a new mayor of New York City, Bill de Blasio. And this new mayor rides the crest of a progressive win that some feel was built on sand. Nevertheless, elected officials never downplay their victories, and the new mayor read his mandate not only on the local level, but on a national level. Immediately he takes to trying to be a leader on the national stage. He indirectly goes after the governor and in some respects makes demands in Albany, earning him few friends among Albany leaders, Democrat and Republican. But in some respects, the new mayor is not looking at his local or even state profile. He is looking at his national one. When Clinton announces, despite the fact that de Blasio worked within the Presidential Administration of her husband, he holds off his endorsement and says she must prove herself to him and the progressive movement, as if somehow, he is the arbiter of what that movement stands for. He announces intentions for a progressive forum... in Iowa?! He already spends significant time out of state talking to liberal constituencies while limiting his



public forums in New York City.

And the governor, who probably has national aspirations, notices all of this. He does not want to be eclipsed on the national stage by someone who actually used to work under him and whose position in local government is significantly below him and who is a man that needs the governor to do favors for him to promote the agenda for New York City in Albany. It is easy to see why the governor would want to take the mayor down a few notches. And the governor has help in that neither body of the State Legislature actually cares for the mayor either. If the governor wasn’t going to teach the mayor a lesson, those bodies would probably do it themselves just for the satisfaction of it. That the Legislature has a partner in the governor simply made it easier for them and gave them cover.


So yes, the battles between the governor and the mayor take place on a local stage, but if you think this political battle is local, you are missing the bigger picture. It is all about who is the leader from New York State on the national stage. And in this instance, the politics is definitely national, just played out on the local level.

NYSBA REF William Morehouse Scholarship

Students interested in participating in NYSBA’s 2016 William Morehouse Scholarship program should apply asap. Qualified candidates will be interviewed by representatives of QBBA. Completed application packages must be postmarked and mailed to NYSBA REF offices by April 22, 2016. Call June at (718) 428-3369.

NYSBA Webinar: Working With the New Energy Code

Approved by NYSDOS for NYS Code Enforcement Officials (1 Hour In-Service Credit) and 1 AIA CE HSW LU. 4/12 or 4/19, 2:30 - 3:30 pm. Contact Julie Turner, jturner@nysba.com, (518) 465-2492 Ext. 110.



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QBBA MEMBERSHIP MEETINGS



Thomas Fariello, RA



Our Winter membership meetings have been both business oriented and entertaining. In February, we welcomed Thomas Fariello, RA, First Deputy Commissioner of the Dept. of Buildings as our guest speaker. And on Leap Day, just for fun, our group attended a hockey game at Madison Square Garden where the NY Rangers prevailed over the Columbus Blue Jackets with a score of 2 to 1.

In March, we returned to Monahan's in Bayside for our annual Networking/Mixer dinner meeting.

See you Wednesday, April 20th at Marina del Rey in Throgs Neck!



No Good Deed Goes Unpunished: But Some Do More Than Others

By Norman D. Alvy, Esq.
Tunstead & Schechter - Legal Counsel for QBBA



The construction business is a dynamic field. Inventions abound. Progress is non-stop. Contractors and developers adapt. The public demands "sustainable" projects and industry fills the void. Unfortunately, however, even in our "dynamic" society needless obstacles can crop up when least expected.

Such was just the case when one very experienced builder was constructing a safe, affordable housing project in one urban area. Without warning, restraining orders and an injunction brought work to a standstill. Men and equipment became idle. Insurance expenses and other overhead costs inched up. Even the president of the firm had his home picketed and neighborhood surrounded by protestors until the courts stepped in and curtailed the activists involved. What had precipitated the events? What had the contractor and the developer done wrong? It turns out they were just following their contract. The local citizenry were upset by the way the local government had instituted the project and the contractor and developer were caught in the neighborhood squabble.

Case law in this area in New York has been well-settled. Moreover, contractors and subcontractors who are constructing public improvements are not liable to local shopkeepers or retailers for loss of business or business interruption expenses during the course of the construction period as long as they follow the construction requirements and provide required access called for by the contract.

Recovery of contract damages and lost profits is another aspect of the construction industry which often is the subject of scrutiny. The rule of foreseeability comes into play in this area. This is especially the case when a contractor terminates a subcontractor and it turns out the termination was improper or a wrongful one.

In one such case, the parties had agreed on a specific price for certain basic contract work. They had also discussed and scoped out seven additional change orders. After the subcontractor had completed a portion of the basic contract and three of the seven change orders, the entire contract was terminated. A follow-on contractor was called in to complete the contract and the remaining change orders. At issue were the damages for the unfinished basic contract work for which a lump sum would have been paid and those damages for the change order work which was to be paid for on a time and material basis.

As to the claim for lost profits on the basic contract, the Appellate Division

reiterated the well-settled rule that damages in an action for breach of a fixed price construction contract where full performance is thwarted by the owner, the measure is the contract price less payments made and less the cost of completion.

In the instant case, the parties agreed on the price for the remaining basic contract items. The sole variable was the calculation of the actual costs which were to be deducted. According to the Appellate Division, the lower court had failed to deduct the cost of certain materials which would have been incurred had plaintiff completed the job. The plaintiff's owner reliably established that the fuel necessary to transport employees and equipment would have been approximately a half percent of the contract price and therefore that sum should have been deducted from the damages for lost profits resulting in lost profits of \$293,649.12 (rather than \$294,852.12). Additionally, the undisputed evidence of the actual amount paid to the follow-on contractor for the remaining "change order work" provided an exact number for the loss of those profits without the need for any speculation. (*Inspectronics Corp. v. Gottlieb Skanska*, 2016 N.Y. Slip. Op. 00155, Jan. 13, 2016). Moreover, in any event, when contemplating such a serious step as termination of a contractor, subcontractor or vendor in any business relationship, explore feasible alternatives. In fact, mediation may be a viable alternative and less expensive.

This article is not to be considered legal advice. If you have any specific questions you should contact your legal counsel. You may contact Norman D. Alvy, QBBA Legal Counsel, at Tunstead & Schechter, 500 North Broadway, Jericho, NY, (516) 822-4400, fax (516) 822-4462; na@tslawyers.com.

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2015

QBBA Annual Building Awards

Residential – 1, 2, or 3 Family & Apartment Buildings



Feeney Residence

*Owner: Caroline & Timothy Feeney
Builder: Arverne by the Sea, LLC
Architect: MA Cosentino, Architect, P.C.
Program: Build it Back – NYC Housing Recovery Office & NYC Dept. of Housing Preservation & Development*



Wrynn Residence

*Owner: Gregory Wrynn
Builder: Arverne by the Sea, LLC/Rockaway Beach Construction
Architect: Gary Lenhart, CMC Design Architect, PC
Program: Build It Back – NYC Housing Recovery Office & NYC Department of Housing Preservation & Development*



1188 Fairfax Avenue

*Owner: Joseph Furgiuele
Builder: Legend Construction Co., Inc.
Architect: Gino O. Longo, Architect*



The Moshel Residence

*Owner: The Moshel Family
Builder: Vintage Homes, Inc.
Architect: Gerald Buck Architects*



Residential 1, 2, or 3 Family & Apartment Buildings, continued



Milan Condominium

*Owner: 30-25 21st Street, LLC
Builder: Park Construction Corp.
Architect: Angelo NG & Anthony NG Architect Studio, P.C.*



Calvary Grandparent Residence

*Owner: Calvary Grandparent Residence, LLC
Builder: D & F Construction Group, Inc.
Architect: Gerald J. Caliendo Architect P.C.*



Rive Signature

*Owner: L.A.L. Property Management Corp.
Builder: Maurice Contractors & Designers, Inc.
Architect: GM Architectural Studio, P.C.*



Douglaston Custom Home

*Owner: Greenhill Associates LLC
Builder: Greenhill Development LLC
Architect: Frank Petruso, Architect, P.C.*



Custom Residence Home

*Owner: May Mian Xu
Builder: Green Hill Development LLC
Architect: Frank Petruso, Architect, P.C.*



**Residential
1, 2, or 3 Family
& Apartment Buildings, continued**



Barrier Free Living Apartments
Owner: Alembic Community Development/Benjamin Warnke
Builder: Mega Contracting Group, LLC
Architect: SLCE



Forty2East Condominiums
Owner: Bondee Properties, LLC
Builder: Cristom Construction Services, Inc.
Architect: Christopher Papa Architects



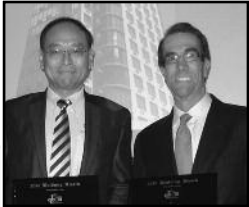
Creston Avenue Residence
Owner: Volunteers of America–Greater New York/Robert Sanborn Development
Builder: Sisca Northeast
Architect: Magnusson Architecture and Planning, P.C.



Riverwalk
Owner: The Beechwood Organization
Builder: The Beechwood Organization
Architect: Meltzer Costa Architects

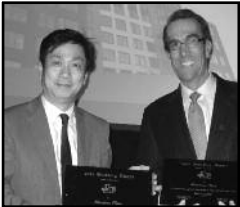


Wales Avenue Residence
Owner: Volunteers of America–Greater New York
Builder: Sisca Northeast, Inc.
Architect: Gran Kriegel Associates Architects + Planners, LLC



Brooklyn Air
Builder: Vista Skywall Systems, Ltd.
Architect: Ismal Leyva

**Residential
1, 2, or 3 Family
& Apartment Buildings, continued**



Macedonia Plaza *Owner: Macedonia AME Church*
Builder: B.R.P. Construction
Architect: David J. Stuart



300 Eldert Street
Owner: Ambrosino Equities LLC
Builder: Ambrosino Construction Corp.
Architect: Bricolage Architecture & Design

**Residential
1, 2, or 3 Family
& Apartment Buildings, continued**



Wyckoff Residence
*Owner: Sharon Hakmon
 Builder: Sharon Hakmon
 Architect: Gerald J. Caliendo, Architect, P.C.*

**Rehabilitations, Alterations
& Additions (Exterior or Interior)**



Kamil Residence
*Owner: Kamil Zawadzki
 Builder: Rafal Sawera
 Architect: William Gati, Architect, AIA*



33-38 Regatta Place *Owner: Amir Melatparast
 Builder: VA General Home Improvement Corp.
 Architect: Arnold Montag, Architect, AM/PM Design & Consulting, P.C.*



The Arbor at Locust Manor
*Owner: Locust Manor Family Residence Limited Partnership
 Builder: D & F Construction Group, Inc.
 Architect: Gerald J. Caliendo Architect P.C.*



AFTER



**Rehabilitations, Alterations
& Additions (Exterior or Interior)**



Terrace House
*Owner: Kenneth & Heather Clausman
 Builder: Lee Construction
 Architect: Laura Heim Architect, PLLC*

BEFORE



206 East 75th Street
*Owner: Thomas Corper
 Builder: ZHL Group, Inc.
 Architect: Guillermo M. Gomez, AIA*

AFTER



556 Gates Avenue
*Owner: 556 Gates LLC
 Builder: Yavne Management/Tal Shlomi
 Architect: Arnold Montag, Architect, AM/PM Design & Consulting, P.C.*

**Gino O. Longo, Architect Named
2015 QBBA Associate of the Year**



Gino Longo has been honored as our Queens & Bronx Building Association's 2015 Associate of the Year. The award was presented in December at the annual QBBA Building Awards and Holiday Party.

A member of QBBA since 2005, Gino is a most active member of our Association and he energetically participates by sponsoring events, bringing in new members, and is always there to help us at a moment's notice. He is a New York State Registered Architect who received his Bachelor of Architecture degree from the New York Institute of Technology in June of 1990. He is a member of the American Institute of Architects, the College Point Board of Trades, the Bronx Chamber of Commerce, and

the Malba Field and Marine Club.

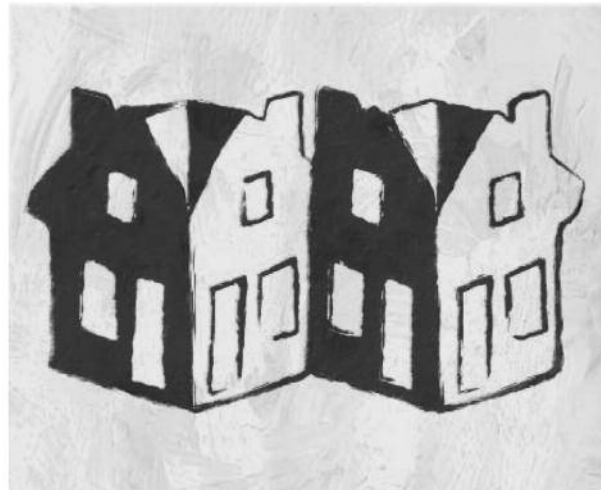
Gino was introduced into the construction industry by his father, Luigi Longo, who was a general contractor. He worked as a construction laborer and salesperson for five years while he attended NYIT. Soon after graduating, he was employed at the office of Alfred A. Fantino, R.A. who was a local Bronx architect. After completing his two year apprenticeship and passing his licensing exam, Gino became a Registered Architect in November 1993 at the age of 25. Soon thereafter, in 1994, he established his own practice in Queens and eventually expanded to the Bronx.

Through the years Mr. Longo has received numerous design awards and certifications. Well respected among his peers, he recently served as a juror for the AIA Long Island's 2015 Archi Awards, and he also served as President of the Queens Chapter of the American Institute of Architects from 2013 through 2014. Gino Longo recently received the Italian Heritage Leadership award from the Bronx Chamber of Commerce.

Congratulations Gino, a treasured member, from all your friends and colleagues in the Queens & Bronx Building Association!

A black and white photograph of a modern, multi-story commercial building at a street corner. The building has a flat roof and large glass windows. On the corner, there is a sign for 'KAM1660' and a banner for 'The New Hampshire Bank'. The building is surrounded by trees and parked cars. Pedestrians are visible on the sidewalk.

—13—

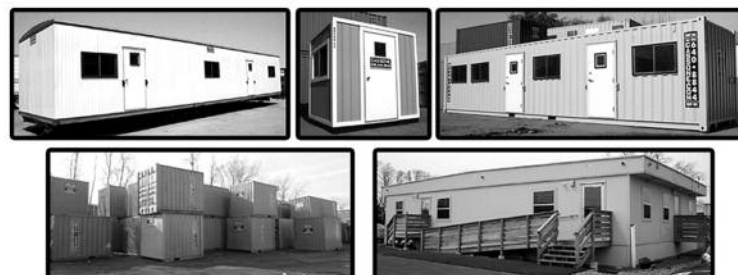


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