EIGHT-PENNY NEWS

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Sick building syndrome case settled out of court

Although it was settled out of court recently, a landmark indoor air quality case has brought a new form of financial liability to architects, contractors, and subcontractors. According to the December issue of *Indoor Pollution Law Report*, a trial judge's ruling in *Call* v. *Prudential* opens the way for building occupants who become sick from toxic fumes to sue any and all professionals who design and construct the building if the ventilation system proves to be inadequate.

Considered the first "sick building syndrome" case, *Call* v. *Prudential* spent nearly five years in the courts before being settled for an unspecified amount.

Although high-rise office buildings are the most susceptible to "sick building syndrome" because they rely exclusively on mechanical ventilation, indoor air quality can also be an issue in tightly built homes.

In *Call* v. *Prudential*, the plaintiffs — nine individuals and two corporations suing for personal injury — described how they became sick after moving into suites on the same floor as a bank of offices under renovation. The entire floor of the building shared a ventilation system.

The resulting illnesses caused an unusually high absentee rate and eventually forced the two corporations to move their offices elsewhere. Trial testimony established that the architects and general contractor gave no thought to the fact that the common ventilation system was recycling toxic fumes to the occupied offices, and that the workmanship on new ducting was so poor that little relief was brought to that floor of the building when changes were made.

Though the jury was never called on to reach a verdict, when they were informally polled after the trial they demonstrated concern for indoor air quality, and had no trouble understanding the technical material brought up in testimony. Between office and home, average Americans spend more than 80% of their time indoors, increasing their exposure to a variety of contaminants from molds to formaldehyde.

Return of the covered bridge

With the resurgence of timber frame construction, the covered bridge is making a comeback of sorts. At East Longmeadow, Mass., builders from Thistle Blacksmith in Springfield have erected one of only five covered bridges built in New England in the last century. This covered bridge is at the entrance of a new-house development. The components of the timber frame were cut by Hearthstone Inc., of Dandridge, Tenn.

So what happened? Hindsight on the crash

Many economists feel that low interest rates, dropping home prices, and a national recovery will turn the New England economy and housing market around in the next year or so. With that prospect on the horizon, it makes sense to see how we got to the sour end of the current cycle.

Real estate party. Economist Russ Thiebeault, of Applied Economic Research in Laconia, N.H., offers an anatomy of the New England boom and bust of the 1980s. The stage was set, Thiebeault argues, by the recession and high interest rates of 1981 and 1982. These depressive factors created a pent-up demand for housing.

Beginning in 1983, however, several events stimulated both the larger New England economy and real estate. Interest rates dropped almost in half, to around 10%. Federal tax cuts freed income for spending. High-tech and defense industries grew, raising employment levels and wages. The region saw double-digit income growth.

These factors released the pent-up housing demand. Construction rates went to twice the historic norms. Prices doubled between 1983 and 1987.

The morning after. The bubble popped when the boom began to feed on itself, rather than on the forces that started it. These began to falter as early as 1985, when the region's manufacturing employment began to slip. Non-manufacturing employment was still high, but high housing prices were making it harder for everyone to attract new workers. This forced employers to raise wages, further raising their costs, which hurt the region's competitiveness and ability to attract new business.

The building continued, however, fueled by eager developers and cash-rich banks that, in a competitive lending environment, lost their caution about lending. As a result, between 1985 and 1987 the pent-up demand for housing was met and then saturated by countless spec projects — especially condominiums — planned in the first half of the boom.

By 1988, the boom was far in front of its feet. In 1989, it fell: high-tech and defense industries joined manufacturing in the slowdown, causing sharp drops in retail and service and a collapse of the construction industry, which fell 75%. That left many builders and carpenters out of work, too many houses on the market, and no one buying or building.

What's in a boom? This entire cycle dynamic begs the question of whether explosive economic expansion is good, in the long term, for builders, and for small builders in particular. Small builders don't have sophisticated resources to foresee economic changes. As a result, they often have little to show at the end of a boom other than a nice portfolio, a few extra thousand in the bank, a nice truck with payments due, and a lot of time on their hands. They struggle to find jobs in an intensely competitive market, hoping to survive until the next

continued

Housing industry begins to rebound

A 16.2% surge of new-home sales in February, the biggest monthly gain in nearly five years, was prompted by lower mortgage rates and the end of the Persian Gulf War, according to analysts.

The February gain, the first since November, was led by large sales growth in the Midwest, although all regions enjoyed increases from the extremely depressed January level, according to a Commerce Department report.

The 16.2% rise in new single-family home sales followed a 12.6% decline in January and was the biggest one-month gain since the 21% jump in March of 1986.

Another positive sign for home builders in the Commerce Department report was that prices also rose. The median selling price climbed to $127,500, up from $120,000 posted in January and close to the record high of $130,000 posted in April 1990. The average price of homes sold was also up, rising to $158,800.

The February increase still left sales at a seasonally adjusted annual rate of 467,000 units, which is 23% below last year.

The report, however, was another sign that the housing industry is beginning to rebound. Sales of existing homes were up 7.9%, also the biggest rise in five years. Construction of new homes and apartments rose, and applications for new building permits have also posted gains.

Although the market is definitely moving in a positive direction, most industry analysts warn against overemphasizing the February gain.

A sustained recovery hinges on continued decreases in interest rates, which hit a low of 9.25% for fixed-rate mortgages in February, but have since edged upward.

But economists forecast that rates should begin to back off in the coming months as inflationary worries subside and the Federal Reserve loosens credit to speed the end of the recession.

David Seiders, chief economist for the National Association of Home Builders (NAHB), said he is expecting fixed-rate mortgages to return to 9.25% and possibly drop to 9% before year end. In late March, fixed-rate mortgages were at 9.52% and heading downward. At that time, adjustable-rate one-year mortgages were still at an all-time low of 7.41%.

Regionally, new home sales in February for the Midwest soared by 70%, a pace few expect to last. In the South, sales rose 9.1%, and in the Northeast sales rose 5.9%, while in the West sales rose 1%.

Manual explains new tax and business regs.

The American Subcontractors Association (ASA) has produced a manual to help explain how the Omnibus Budget Reconciliation Act of 1990 affects the industry.

The act brings both good and bad news to builders and subcontractors. While it eased the probate tax burden in the section commonly known as the "Estate Freeze Law," the act also increased some Occupational Safety and Health Administration penalties seven-fold.

Other changes caused by the act that are covered by *The Omnibus Budget Reconciliation Act of 1990: A Summary of Pertinent Provisions and Their Impact on Subcontractors* include:

- Establishment of a tax credit to help small businesses comply with the Americans with Disabilities Act;
- Extension of the .2% surtax under the Federal Unemployment Tax Act;
- A raise in the cap on wages and self-employed income used for calculating the Medicare health insurance portion of the FICA tax;
- An increase in the interest rate payable by Subchapter C corporations on tax underpayments;
- Extension of the deduction for health insurance costs of self-employed individuals; and
- An increase in the premium paid by employers to the Pension Benefit Guarantee Corporation who maintain a single-employer defined benefit plan.

A copy of the manual can be purchased for $10 from the ASA. For more information, contact the ASA, 1004 Duke St., Alexandria, VA 22314; 703/684-3450.

U.S. SOFTWOOD LUMBER CONSUMPTION BY MARKETS AND PRINCIPAL SOURCES, 1990 ESTIMATES and 1991 PROJECTIONS (Million Board Feet)

Markets	Est. 1990	Proj. 1991
Residential Construction	14,797	13,885
Other New Construction	7,040	6,865
Repair & Remodeling	14,767	14,325
Materials Handling	4,432	4,250
All Other	4,123	3,920
TOTAL	45,159	43,245

A market newsletter for N.E. builders

New England builders have a new quarterly called *Connecticut Construction Market Report* to turn to for economic information. The report, put out by the Connecticut chapter for the Associated Builders and Contractors (ABC), draws from building permit, census, demographic, and other information to analyze and forecast building activity in the state and New England.

A key feature of the report is the "Connecticut Construction Index," an indicator developed by the Connecticut chapter. The seasonally adjusted index is based on monthly movements in annual rates of newly started construction. The index uses January 1986 as its 100 base for comparison purposes.

More localized data is available as well, providing information on construction activity by county and major metro areas.

As might be expected, the first report found the state and region's market to be weak in the fourth quarter of 1990, reaching a four-year low despite jumps in nonresidential activity in some areas. The state construction index for December was 59, compared to the national index of 97 and a New England level of 75.

For Connecticut, this represented a drop of 69% from the high of 190 registered in 1988. (The New England index hit a high of 160 then.)

Bernie Zak, executive director of the ABC chapter, noted one encouraging sign: an upsurge — as high as 33% — in nonresidential activity in some areas. This won't directly help many small builders. But it may indicate a business and commercial expansion that could help revive the residential market.

The report looks to be a valuable way to keep track of building trends in New England. For information about receiving a copy, contact Bernie Zak, Connecticut Associated Builders and Contractors, PO Box 1142, Middletown, CT 06457; 203/346-6681.

From What We Gather

Last year was the first time in four years that national income growth exceeded home price inflation, according to a study of 18 housing markets conducted by the Chicago Title and Trust Company. The company found that while median home prices increased only 1.1%, median household income increased 3.2% from 1989 to 1990. As a result, many repeat buyers were unable to trade up to more valuable homes since they couldn't make enough profit by selling their existing homes. At the same time, the increase in income meant first time home buyers were better able to afford housing.

Energy code information for residential and commercial construction in all 50 states can be found in the 250-page *Energy Directory*. The book is produced by the National Conference of States on Building Codes and Standards (NCSBCS) and is available for $95. For more information, contact the NCSBCS, 505 Huntmar Park Dr., Suite 210, Herndon, VA 22070; 703/481-2026.

An FRT mediation and warranty plan is being proposed by the National Association of Home Builders (NAHB). NAHB hopes to stem the tide of expected lawsuits over roofs sheathed with prematurely degrading fire-retardant treated (FRT) plywood. The association estimates that FRT problems could cost the industry $2 billion in penalties and $6 billion in court costs.

Thirty percent of all falling accidents result in some kind of permanent disability according to national safety statistics.

Now that the war is over, it is time to rebuild Kuwait and Sweet's will be there. The McGraw-Hill building supplies catalog has produced a special edition designed for builders in Kuwait called *The United States Building Products File*.

Beer garden wins landscaping award

Landscaper Laurence Coronis isn't German, but for him, beer and gardens have gone together well lately. His landscaping work on the grounds of the 102-acre Budweiser Brewery in Merrimack, N.H., recently won both a national Grand Award from the Associated Landscape Contractors of America (which recognized it as the country's best commercial landscape project) and a Loren E. Pearson Grand Award by the New Hampshire Landscape Association. He also won a Pearson Award for one of his residential projects, a home in Nashua, N.H.

It's the Anheuser-Busch award that has brought the most attention. The Merrimack Budweiser plant is where the company keeps one of its Clydesdale teams. Between the horses and the free beer, the plant draws 250,000 visitors a year. Daily guided tours show off Coronis's work: 32,000 annuals, ornamental trees, and a variety of spring bulbs; the "Clydesdale Hamlet" where the horses are kept and exercised; a huge complex of sports fields; and a hops demonstration garden — a special challenge, since hops don't normally grow in New England.

It's a big job. Coronis has workers there 365 days a year maintaining and changing the plantings. To minimize the environmental impact of all this landscape maintenance, the company uses its "Environmentally Sensitive Program" (Coronis calls it ESP), his trademarked version of what horticulturists call Integrated Pest Management.

Integrated Pest Management uses natural processes and selective pest and weed control rather than blanket preventative spraying. Traps near likely targets capture harmful beetles. Species-specific internal parasites called nematodes, or microscopic worms, destroy undesirable insects from within, while larger predatory insects, some of them introduced and some simply encouraged by plantings, destroy them from without. Carefully selected combinations of plants can naturally repel each other's respective pests.

"We use biological solutions whenever possible," says Coronis. "About the only time we use pesticides is on trees to take care of an outbreak of Japanese beetles. But that's rare."

Coronis says a modified version of this management approach is useful for residential properties, which also constitute a good portion of his business.

"We have three programs," he says."One is a standard program of preventative spraying. Then there's the full ESP program, in which we use organic fertilizers and mostly biological control methods. It can be pretty labor intensive. In the middle we have a modified ESP program that uses chemical fertilizers and pesticides, but sparingly, and primarily in response to known problems, rather than as a blanket preventative."

The problem with blanket prevention, he says, is that it often kills not only undesirable insects, but other parasitic and predator insects that control them; wasps, which eat many garden and foliage pests, are a good example.

"Wasps are actually pretty good to have around," he says. "As long as they're not nesting over your front door."

Tax Talk

IRS ups retirement plan limits

by Irving L. Blackman

Qualified retirement plans are still one of the few shining stars in a dismal tax galaxy. Such plans are so good, in fact, that the IRS has set strict limits to prevent you from ballooning the amounts you can contribute and deduct.

The tax law permits various dollar caps to be boosted each year to keep pace with increases in the cost of living. Here are the new limits just announced for 1991 by the IRS.

Pension plans can be funded to give you an annual benefit of up to \$108,963 (increased from \$102,582 in 1990). The maximum annual contribution to a profit sharing plan remains \$30,000. You can make a \$8,475 contribution to a Section 401(k) (up from \$7,979).

In calculating benefits, you can take into account up to \$222,220 of compensation this year (increased from \$209,200 in 1990). For example, if your profit sharing plan provides for contributions equal to 10 percent of compensation, the maximum 1991 contribution allowed for your benefit is \$22,222 (versus \$20,920 in 1990), no matter how much you earn.

Want to learn how to win the qualified plan tax game? Send for *Still the Best Fringe Benefit…Profit Sharing and Pension Plans* (\$24) and *Section 401(k)…Everybody Wins, Employer and Employee* (\$23) or both for \$38. Send to the book division of Blackman Kallick Bartelstein, 300 S. Riverside Plaza, Chicago, IL 60606.

Irving L. Blackman, CPA, J.D., of Blackman Kallick Bartelstein in Chicago, specializes in accounting for building contractors. He also lectures and offers consultation to builders at 312/207-1040.

Crash, *continued*

boom.

Few small builders complained during the boom. Yet at some point, the primary long-term interests of their entire industry — the prospect of steady, profitable work — got overlooked or swept aside. Where did that happen?

Pointing fingers. Some blame the banks, which had access to the best economic information and forecasting for the region, but did not heed the early signs of a slowdown. Whether missing these signs was reasonable is subject to interpretation. New Hampshire economist Russ Thiebeault says that it was easy to be fooled in the last half of this boom, which was sending particularly blurry signals, particularly to bankers. For instance, though manufacturing employment was dropping in 1986, total income was growing, and banks were enjoying record deposit levels.

John Ewing, president of Bank of Vermont, which is associated with Bank of Boston, argues that banks can't be expected to pull in the reins during the boom in the face of such ambiguous evidence. "Bankers aren't different from anyone else," he says. "When things are good, it's easy to overlook warnings."

Growth controls the answer? If banks can't be expected to put the brakes on a boom, are growth controls the answer? A recent *New York Times* article argued that Vermont's statewide controls established under the 20-year-old Act 250 were one of the main reasons that Vermont, which didn't boom as heartily as its neighboring states, is now relatively healthy, with fewer problem loans and a smaller housing surplus.

But while most observers agree that Act 250 helped check the Vermont market and ease its downturn, it wasn't the only major factor. Other factors included Vermont's slower job growth, its lack of major population centers, and its distance from Massachusetts, which led the region's expansion. These factors all had a major role in keeping development pressure in Vermont from reaching the levels it did in neighboring states.

Russ Thiebeault believes that if New Hampshire, for instance, had Vermont's growth laws in place during the 1980s, they might have caused significant problems. During the boom, he says, any artificial limitations on building in the midst of the strong employment surge would have driven housing prices even higher. This not only would have closed many home buyers out of the market, but might also have choked the boom off prematurely when employers had to compromise competitiveness by paying high wages to attract workers.

"You can make a case that the real problem was that we didn't build homes fast *enough* during the early part of the boom, so too much income and wages had to go into housing," says Thiebeault. "If there's a demand for housing, government should not stand in the way. The market has to be allowed to respond."

No easy answers. If banks and growth controls can't keep real estate markets from warping, what can? Bank of Vermont's John Ewing suggests that a combination of reasonable growth controls, prudent lending guidelines, and better information would help even out real estate cycles.

"Zoning alone can't do it effectively," he says. "And if overdone, it can be oppressive and discourage healthy growth. You need to balance that with having good information among construction people, bankers, and planners."

One vital piece of information missing, says Ewing, is an accurate gauge of how housing supply measures up to present and future demand. Properly heeded, such information could greatly aid planning by builders and bankers both.

"Whether it would be heeded, of course, is another question," says Ewing. "But I like to think we've learned."

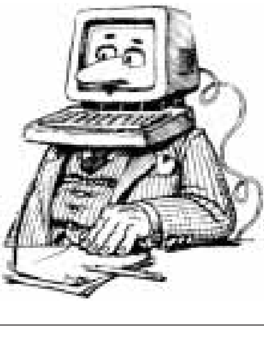
Only time and the next expansion will tell.

New stress-skin panel association formed

Manufacturers of structural insulated panels, commonly called stress-skin panels, recently formed an association to provide builders with information on those materials as well as promote their use.

The Structural Insulated Panel Association (SIPA) currently has 22 full and associate members. For more information, contact SIPA, 1090 Vermont Ave. NW, Suite 1200, Washington, DC 20005; 202/408-5003 or 202/682-0168.

Computer Bytes



Lead Tracker software is designed to help get a handle on lead generation activities and sales productivity. Lead Tracker maintains a list of prospective customers from which labels, letters, and analytical reports can be printed. For more information, contact Northwest Construction Software at 503/644-6152.

Carpentry layout routines such as calculating rafter spacing, decking materials, rafter plumb cuts, and stairs are now available in the Business Builders collection. The Business Builders collection contains five other programs for remodelers, each focusing on a problem unique to the trade. For more information, contact Northwest Construction Software at 503/644-6152.

Generic Cadd 5.0 integrates with EasyEst 4.0 estimating program, which was recently upgraded. Both programs are made by Contractors Management Systems. For more information, contact CMS, 9320 Carmel Mountain Rd., Suite C, San Diego, CA 92129; 619/484-7911.