

# In the News

## Court Blocks Oklahoma Immigration Law

**T**he ongoing tug-of-war between the federal government and the states over the legality of requiring private businesses to act as de facto immigration-enforcement agencies took a new twist in June when a federal district court temporarily blocked Oklahoma from enforcing two key provisions of a 2007 law.

Under Oklahoma HB 1804 — also known as the Oklahoma Taxpayer and Citizen Protection Act of 2007 — businesses seeking contracts with the state would be required to use the federal E-Verify system to check the eligibility of all employees. The rule would also impose state tax penalties on businesses that failed to verify the work-authorization status of individual independent contractors working for them.

Both provisions were scheduled to take effect on July 1, but a consortium of state business groups challenged the law in federal court, claiming that it conflicts with the federal Immigration Control and Reform Act of 1986, which states, “The provisions of this section preempt any state or local law imposing civil or criminal sanctions (other than through licensing or similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.”

U.S. District Court Judge Robin J. Cauthron issued a temporary court order in favor of the business groups, finding it “substantially likely” that they will ultimately succeed in proving that HB 1804 is in fact unconstitutional.

A future hearing — for which no date has yet been set — will determine whether the temporary injunction will become permanent.

Other portions of the law have been in effect since November 2007. Among them are provisions that prohibit undocumented immigrants in Oklahoma from receiving any tax-supported state services and that make transporting or harboring undocumented immigrants a criminal offense.

It’s unclear how the Oklahoma ruling will affect similar state and local laws elsewhere, such as the Legal Arizona Workers Act — currently undergoing a separate legal challenge in a federal appeals court — and Local Law 52 in Suffolk County, N.Y., which requires contractors doing business with the county to affirm that none of their workers are undocumented.

Even less clear is whether Congress will ever step up to the plate and pass a comprehensive immigration-reform act. Until that happens, says NAHB immigration policy specialist David Crump, the “emerging patchwork of confusing and conflicting state and local laws” will continue to be a source of frustration and anxiety for business owners.

“It’s a difficult situation,” Crump observes, “because it puts employers at risk of violating federal laws, particularly antidiscrimination laws.”

— *Jon Vara*

■ A fatal trench collapse at a Brooklyn construction site has led to charges of manslaughter, criminally negligent homicide, and reckless endangerment against the building’s owner, William Lattarulo. He had hired undocumented workers to excavate a foundation and was overseeing the work without a general contractor. When warned that the undermined foundation of the building next door was unstable, Lattarulo reportedly told workers to keep digging. Thirty-year-old Lauro Ortega was killed in the collapse; another worker was injured. Lattarulo’s attorney told reporters that the collapse “was an accident and accidents happen at construction sites.”

■ San Francisco has announced a package of voluntary initiatives aimed at encouraging property owners to perform seismic retrofits on thousands of so-called “soft-story” buildings. These structures — which include apartments over retail or restaurant space and homes over garages — typically feature large ground-floor openings that make them extremely vulnerable to twisting or buckling in a quake; dozens of deaths in the 1994 Northridge quake were attributed to soft-story failures. In addition to expediting the review of retrofit permits and waiving permit fees, the city will develop retrofit guidelines, complete a study of vulnerable buildings, and create an outreach program to educate property owners about the importance of seismic retrofitting.

# Green Goes Mainstream in California

California has moved to cement its reputation as the nation's greenest state by releasing a preliminary version of the nation's first comprehensive green building code — a move that, given the size of the state's housing market, could eventually lead to a proliferation of similar state codes elsewhere.

Under the expected time line, a published version of the new California Green Building Standards Code will appear before the end of 2008, to be followed by a 180-day public comment period. After that — probably by July of 2009 — the code will take effect as a voluntary standard, becoming mandatory in January 2011.

The new code sets standards for sustainable sourcing of lumber and other materials; mandates the use of low-VOC paints, adhesives, and coatings; and imposes new restrictions on water and energy use. The state intends to reduce use of potable water for irrigation by 50 percent, household use of potable water by 20 percent, and overall use of electricity by 15 percent.

Many details remain to be worked out. For example, one of several compliance options under the household water-reduction provision calls for showerhead flow rates to be reduced from the current 2.5 gallons per minute to 2.0 gallons per minute, and for gravity-tank toilets to reduce water use from 1.6 gallons per flush to 1.28 gallons per flush. But because no list of fixtures meeting those standards is available, the draft version simply notes that "a schedule of plumbing fixtures and fixture fittings ... shall be provided." Other sections, such as one dealing with recycled and gray-water irrigation systems, have yet to be written.

However, some aspects of the new code should already be familiar to most builders, says California Building Standards Commission executive director David Walls. Under the current California energy code, he notes, builders are already using a computerized system to calculate energy consumption. The additional reductions called for in the new code, he says, will essentially be a matter of running the same sort of system with different numbers.

Many mainstream builder groups have come out solidly in favor of the new code. A California Building Industry Association press release hailed it as "practical and cost-effective." Green builders, though, have been less enthusiastic. One day before the July 18 adoption of the draft code, building officials and a coalition of green builders met to

hammer out compromise language in several areas. The new language makes it clear that California municipalities are free to enact more stringent standards than those in the state code, and that the state code is not meant to "meet or substitute for" other green rating systems, such as the U.S. Green Building Council's proprietary LEED system.

Not resolved but certain to come up again is a dispute over the code's standard for sustainably harvested lumber. Most California environmental groups, including the Green Building Council, want to restrict that designation to wood recognized by the nonprofit Forest Stewardship Council, while the state prefers to recognize lumber from other certifying agencies as well. — J.V.

■ A newly identified insect that a Texas entomologist has called "the ant of all ants" is shorting out electrical devices in the Houston area. According to researchers at Texas A&M University, the so-called "crazy raspberry ant" — named for its discoverer, local exterminator Tom Rasberry — was first observed in 2002 but is now showing up in "remarkable numbers" in at least seven Texas counties and is expected to spread into other parts of the state. The insect — which occasionally bites but does not sting — has so far proven highly resistant to pesticides; one characteristic in its favor is that it eats fire ants and may outcompete them in areas where the two species overlap.

■ DeWalt and Paslode have each announced product recalls. DeWalt is recalling 14,000 of its DC608 18-volt cordless brad nailers because of a defective switch that can allow the tool to fire even with the safety in the locked position. The gun may also fire when the nose-piece is depressed. To receive a free repair, call 866/220-1481 or visit [www.dewalt.com](http://www.dewalt.com). Paslode, meanwhile, is recalling 86,000 "Tall Red" fuel cells (part #816000) designed for use in the company's cordless framing nailers; the cells leak, posing a fire hazard. For details, call 800/222-6990 or go to [www.paslode.com](http://www.paslode.com).