

7.11.11

ACTIONS speak LOUDER

At the HBACA we believe that actions really do speak louder than words, but we thought we'd put our actions into words so you can see just what we've been up to lately. The HBACA...working for you!

CHAIRMAN'S message

We've all heard the saying, "When the going gets tough..." Well the tough definitely got going in 2011! Our industry may be in the middle of the worst housing crisis in history, but the HBACA, through years of perseverance in the electoral and government affairs processes, just came through its most successful session ever at the Arizona Legislature. Our wins during the November 2010 Election resulted in a number of new legislators getting elected that were very supportive of encouraging economic growth and shrinking the size of government. This allowed the HBACA to have an unprecedented 100% success rate during the 2011 Legislative session. The crowning achievement is SB 1525, a landmark piece of legislation that fundamentally alters how impact fees can be assessed and collected in Arizona, saving builders (and ultimately new home buyers) an estimated \$400 to more than \$4,000 per home, and helping new homes become more competitive with the resale market.

As Chairman of the Board, I would like to personally thank you for your strong support of the HBACA during both the good times and the more challenging ones we are currently facing. Successes like the 2011 Legislative session are only possible with the continued financial backing of our members. The HBACA is the only organization in Central Arizona dedicated to promoting and protecting the residential construction industry. With your help, the Association will continue its efforts to strike the necessary public policy balance to secure the future of home building and guarantee that the housing needs of all Arizonans will be met now and well into the future.

To help you better understand all that the HBACA does for its members, this Actions Speak Louder briefing outlines a few of the things the HBACA is currently working on or has recently accomplished. I encourage you to take a few moments to read this report to learn a little more about all of the benefits you gain by being an HBACA member.

Please feel free to contact any member of the HBACA staff if you have any comments or questions. Thank you again for being an integral part of the Association.

*Kevin Duermit, HBACA Chairman
Group President, Toll Brothers, Inc.*



LEGISLATIVE action

At the legislature, we...

The HBACA Legislative Affairs team is pleased to report on our most successful Legislative session ever. Issues we addressed this year include:

Impact Fee Reform: Successfully enacted landmark impact fee reform legislation that will fundamentally alter how development fees are assessed and collected in Arizona. In particular, the newly enacted reforms (which will go into effect over the next couple of years) limit the type of projects for which fees can be assessed and guarantees that growth will no longer be subsidizing existing residents. Overall, this comprehensive package will finally hold cities accountable when implementing new or increased fees, prevent further abuse and aid in expediting our housing recovery.

Fire Sprinklers: Passed legislation prohibiting municipalities or counties from mandating the installation of fire sprinklers in new single family detached homes. This bill preempts the national fire sprinkler mandate that was included in the 2009 International Residential Code and protects the homeowners' right to choose whether or not they would like to install fire sprinklers in their home.

Arbitration: Implemented a pilot program at the Registrar of Contractors that allows smaller claims to be referred to arbitration, rather than going through a formal hearing by an administrative law judge. This program will save both contractors and the agency money and includes a provision that prevents a contractor's license from being suspended or revoked if the contractor posts a bond in the amount of the disputed claim. Truly a win-win for the ROC and residential contractors.



>> LEGISLATIVE ACTION continued

High Wind Permits: Worked aggressively to grant authority to ADEQ to adopt rules on all potential sources of dust during high wind events, specifically agriculture and unpermitted sources. When the bill was originally crafted to require construction sites to obtain another “high wind” permit, the HBACA successfully lobbied to prohibit ADEQ from requiring an additional “high wind” permit for any source already permitted to prevent emissions in high winds, which includes permitted construction sites.

Pro-Business Reforms: Advocated for several pro-business reforms, including legislation that stops cities from hiring third party auditors on a contingency basis to “find” more tax revenue and a bill that strengthens an employer’s right to stop unauthorized union activity and protests on an employer’s private property.

State Agency Fees: Worked with various state agencies to ensure newly created fees or fee increases are kept to minimum levels, are appropriate and legal, and are justified to ensure efficient services to the regulated community.

At Maricopa County...

Aggressively lobbied Maricopa County to ensure that the residential “sprinkler mandate” was not included in the I-Code adoption. This made Maricopa County the first governmental entity to adopt the codes without the mandate.

Worked with the County to oppose unjustified fee increases and worked with various County Departments to ensure that fees are appropriate based on the demand for services.

For additional information on legislative or county issues in HBACA’s jurisdiction, contact Spencer Kamps at (602) 274-6545 or kampss@hbaca.org.

The HBACA closely monitors activities at the municipal level, and works with city councils, managers, and planning departments to ensure rules and regulations are fair and reasonable for builders and trade contractors.

In Central Arizona Cities we...

- Serve on the MAG Building Codes Committee to maintain communication with Valley building officials.
- Serve on the Arizona Building Officials (“AZBO”) Code Review and Development Committee which seeks to promote consistency and uniformity in the adoption and interpretation of building codes.
- Review and challenge ordinances and resolutions effectuating public policy decisions that impact the homebuilding industry.
- Review and challenge permit, plan review, and Planning Department fees that appear to be excessive.
- Review and challenge design review guidelines that infringe upon home builders’ freedom to design and build a product that meets consumers’ needs, desires and budgets.
- Work with cities to adopt sign ordinances that will enhance members’ abilities to market themselves and their products to the consumers.
- Work with cities to amend building codes reflecting locally accepted building procedures and locally available materials. Once adopted, we also work with the cities on implementing the building codes in a manner that will minimize the effect on those currently building in a city.
- Review impact fee studies and challenge proposed fees that do not comply with State statutes. Currently, we are working with cities to interpret and implement Senate Bill 1525 (Impact Fees) to ensure that impact fees are not used to impose on new residents a burden all taxpayers of a municipality should bear equally.

For additional information on issues relating to cities in HBACA’s jurisdiction, contact Jackson D. Moll at (602) 274-6545 or mollj@hbaca.org.



MEMBER SERVICES **action**

If you have been active with the HBACA for even a short period of time, you are most likely familiar with our Member Services team. Throughout the year the HBACA staff works hard to ensure members stay informed and receive top value for their membership investment. We accomplish this by...

Coordinating meetings, classes and events such as...

- The Southwest Builders Show
- General Membership meetings
- Meet the Builder Breakfasts
- Turn the Tables
- P.A.S.S. (Purchasing Agents, Suppliers & Subcontractors) programs
- Golf Tournaments and other networking events
- NAHB Designation Classes
- OSHA classes

Keeping members informed through...

- Our bi-weekly newsletter – The NewsBuilder
- Regular email updates on Association activities
- Special meetings on topics of interest
- Publications such as Actions Speak Louder

Offering valuable discounts to members through our affinity partners including...

- Home Builders Purchasing Program (HBPP) featuring Verizon, Staples, TalentWise, Airgas, Econz, and more
- NAHB Member Advantage featuring FedEx, GM, Office Depot, Paychex, Lowe's Commercial Services, Hertz, Avis, Budget and more
- Renewal Zone – Special pricing on online real estate renewal classes
- Midway Auto Team Fleet Benefits Program – Discounts on most vehicle makes and models
- NewHomeSource.com – Free listings of new homes for all HBACA Builder members

HBACA Pro Remodelers...

Our newest council open to all HBACA members active in remodeling; designed to provide networking and educational opportunities and to help members grow their remodeling businesses.

For additional information on programs and services for HBACA members, visit www.hbaca.org or contact Jim Sorgatz at (602) 274-6545 or sorgatzj@hbca.org.



SAFETY **action**

OSHA Residential Fall Protection

Adopted in 1995, the current federal and state OSHA fall protection standards provide that if conventional fall protection measures are not feasible or create a greater hazard, alternative fall protection measures are allowed. In 1995 and 1999, Fed OSHA issued directives related to the issue of infeasibility because of problems associated with the standards. Specifically, Fed OSHA directive STD 03-00-001, concluded that compliance with conventional fall protection systems (e.g., guardrails, safety nets, and fall arrest systems) were not feasible in certain residential construction activities. Therefore, employers involved in those activities were permitted to use specified alternative methods of fall protection (e.g., training, warning line systems, safety monitoring systems, slide guards, etc.). Since Fed OSHA determined that conventional fall protection systems were infeasible, individual employers did not have to justify use of these alternative fall protection methods.

The Home Builders Association of Central Arizona (HBACA), in compliance with that directive, developed alternative fall protection plans for twenty different trades involved in various phases of residential construction. In addition, the HBACA worked with the Industrial Commission of Arizona (ICA) to adopt a more stringent standard than Fed OSHA by requiring written alternative fall protection plans which could be used by Arizona contractors and subcontractors as a basis for training their employees.

However, in December, 2010, Fed OSHA rescinded the 1999 directive and issued a new directive, STD 03-11-002. Effective June 16, 2011, this new directive states that Fed OSHA now believes that compliance with conventional fall protection standards are feasible and each and every contractor or subcontractor must prove that compliance is not feasible. The directive further requires that state OSHA (under the jurisdiction of ICA) comply with the directive or come up with an "as effective as" alternative. State OSHA has notified Fed OSHA that it will comply with the directive.

ADOSH informed the HBACA that after the June 16, 2011 implementation date, there will be a period in which their enforcement of the directive will be limited to consultation with employers to assist them as they come into compliance with the standards. This is problematic for several reasons. First, coming on site and stating that something is feasible, despite the contractor's belief that it is not, places the contractor in a no win situation. The residential contractor has no real mechanism to disagree with

the feasibility determination. Second, the contractor potentially faces immediate liability. If an employee for a subcontractor is injured and sues, the subcontractor and general contractor are liable for non-compliance with OSHA standards. Further, the contractor faces increased citations, penalties, and potential criminal sanctions for not complying with the compliance officer's recommendations.

Standards are in place to give those affected notice as to what is required. When administrative directives are being used to interpret standards that are not clear, it is the responsibility of the regulatory agencies to make those standards clear. For the past fifteen years, Fed OSHA has concluded that conventional fall protection standards are infeasible. With less than six months notice, Fed OSHA has determined that conventional standards are now feasible and is expecting that by June 16, 2011, the regulated industry will develop new safety plans and train all employees without any direction from regulatory agencies. This is not reasonable and, in our opinion, an abuse of their regulatory responsibilities.

The HBACA has been working with NAHB and the State of Arizona to ultimately create an Arizona solution that works for our state, rather than allow the Federal government to continue to add more regulations and costs to an already struggling home building industry.

As a result of a meeting between ADOSH, the Governor's office and the HBACA, ADOSH has rescinded the Fed OSHA's directive STD 03-11-002 and returned to STD 03-00-001 until September 15, 2011, and has agreed to have hearings on the new Federal standard prior to taking any further action.

The HBACA will continue to work diligently to ensure that Arizona has a reasonable approach to residential fall protection that makes sense from a safety and economic standpoint for both workers and the home building industry.



APS Line Extension

APS has recently filed a new revision (Rev 12) to their line extension policy in conjunction with their latest rate case with the Arizona Corporation Commission as a result of negotiations with the HBACA and the Arizona Association of Realtors. Highlights for homebuilders and land developers are as follows:

- Line extension agreements (LEA) that were executed in 2006 and 2007 will be extended for 3 years allowing for additional time for subdivisions to be built out and builders repaid on deposits.
- Surety Bonds will be added as another form of deposit (cash and letters of credit have been previously been the only options)
- The LEA will include language for assignment or successor in interest so they can be transferred
- APS will go back to the old refundable deposit/economic model with a \$3,500 per lot credit and 75% build out
- Any LEA signed prior to the July 2012 date will receive the most preferential treatment as long as wire has not been pulled on the project, i.e., if a builder has a more favorable LEA than the new REV 12 will be, then they can take advantage of that one, otherwise, if a builder signs an LEA today, but does not pull wire until after July 2012, he will fall under the new refundable policy.
- Builders will receive refunds within 60 days of their annual review which will be mailed to their address as indicated in the line extension agreement.

Special thanks to many of the builders' land development managers for their assistance in providing input to the Association on this issue.