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CPN 2012 Star Awards: Successful Projects Spur Economic Development in the Triad

PAGE 6

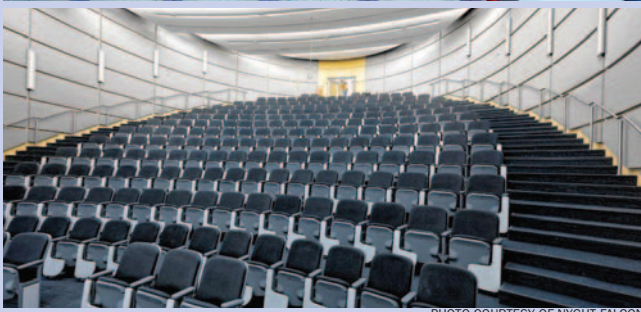


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What Tar Heel Contractors Need to Know About Proposed Changes to the Lien Law

PAGE 2

Carolinas AGC Building and Highway Pinnacle Awards

PAGE 3



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What Tar Heel Contractors Need to Know About Proposed Changes in the State Lien Law

ARTHUR MURRAY
— The North Carolina Construction News

Things got hot last summer in Raleigh for North Carolina's construction industry, with contractors, subcontractors and suppliers, title insurers and construction lawyers butting heads over proposed changes to the state's lien law. Everyone agreed something needed to be done, but no one could decide exactly what.

The N.C. Bar Association held a public

hearing to find a solution to the problems with the law last revised in 1969. Stakeholders were also invited to express their concerns with the association's drafting committee members. Several drafts were sent out to those who had attended the public meeting to obtain their thoughts and comments. Still many comments were at odds with those of others in the industry. For example, general contractors said they face a problem of "double payments" to subcontractors and suppliers.



The problem, the contractors say, arises when a first-tier subcontractor doesn't pay its own suppliers and subcontractors. The general contractor can be liable to the second-tier and below subcontractors even if he made full payment to the first-tier subcontractor, which is where the double payments come in.

The subcontractors and suppliers, of course, had a different concern. They say recent bankruptcy decisions stripped them of many of their lien rights unless they served liens before the first-tier subcontractor filed bankruptcy. That is difficult, they say, because they don't routinely want to serve liens unless there is a problem.

Title insurers, meanwhile, griped about what they call "hidden liens," which occur when a building is finished near the closing date. The title insurer does its search, finds nothing encumbering the property and issues title insurance.

Meanwhile, a contractor who hasn't been paid by the original owner has 120 days from the time he finishes the project to file a lien. Once he does, the new owner files a claim against the title insurer, which is obligated to make the title good.

There was another factor complicating the process of revising the law. Three bankruptcy rulings handed down by the Bankruptcy Court of the Eastern District of North Carolina clouded some of the rules the stakeholders were working under. The

other was a legislature unwilling to dive headfirst into the issue without consensus from the industry. House Bill 489, introduced in March 2011, failed to gain traction.

Instead, the issue was assigned to a legislative study committee, which has scaled the provisions back. There's no longer any provision, for example, on "hidden liens."

The latest proposal does classify off-site non-commodity work as "improvement," which means it qualifies for lien rights even if it is not delivered to the project site. It also provides standardized lien waivers, designed to eliminate confusion that arises from the language of existing forms. The changes that will go before the legislature this summer also increase sanctions for false statements and subject violators to discipline from their governing boards.

The changes also would require contractors on public projects to provide lower-tier subcontractors with a project statement that would give them the information necessary to provide pre-notice to the contractors. As long as the notice is timely, the subcontractor would be entitled to pursue its claim. But if the pre-notice is delayed, it would limit the subcontractor's claim to the value of work done within 60 days of the claim.

Even though the proposal has been scaled back, some players still have misgiv-

Please see page 8



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Carolinas AGC Building and Highway Pinnacle Award Winners Reflect Best Building Practices



GABRIELLA JACOBS
— The North Carolina Construction News

They might not have leaped tall buildings in a single bound, but the people behind the Carolinas Associated General Contractors 2011 Pinnacle Awards for building and highway projects certainly showed superhero spirit.

For example, when the usual path for trucking around materials at a road project was going to be inefficient, a team opted for an overhead conveyor system. When a landslide cleanup/repair project involved manpower working, literally, on a mountainside, supplies were not just hoisted up to them but lowered into place via a helicopter. And when shifting sands and pounding surf threatened to interfere with placing pilings at a beachfront site, a high-tech solution ensured accuracy. Many workers shivered and sweated through the seasons to meet deadlines for these multimillion-dollar projects, but their professionalism paid off. Here are the details.

Best Building Project: **North Carolina Jennette's Pier, Outer Banks**

As millions of locals and tourists (and bluefish) will attest, Jennette's Pier at Nags Head had a long and busy life. Hurricane Isabel, however, dealt it a death blow in 2003. North Carolina decided to replace the venerable wood site with a 1,000-foot con-

Please see page 4



Carolinas AGC

Continued from page 3

crete pier and a three-story, 17,000-square-foot educational facility (each the largest of its kind in the state.) Plus, the new site would have three 90-foot wind turbines, solar panels, and its own wastewater treatment facility, helping it earn LEED Platinum certification.

The Wilmington division of Clancy & Theys Construction Co., a family business founded in Raleigh in 1949, was general contractor and construction manager for the project, collaborating with Bowman Murray Hemingway Architects of Wilmington. Clancy & Theys also has worked on the state's Pine Knoll Shores and Fortthe arch Fisher aquarium facilities.

"Our whole company is very proud of this project. I know that our team worked very hard to develop ideas to make the project work from a budget standpoint," said Scott Cutler, vice president, Clancy & Theys. "Marine construction presents some unique challenges, and it has been important to our company that our Wilmington Division has that expertise, and now also has an impressive portfolio of experience for the North Carolina Aquariums."

Several cost-saving decisions were made at the outset of this project, such as:

- 24-inch square vs. 30-inch cylindrical piles. The smaller size cost less for delivery and structural reinforcing, yet still achieves the desired wave force and appearance.
- Open crawl space design. This enabled contractors to move more easily beneath the pier house, thus reducing labor and materials, and it saved time.
- Pre-cast concrete pier level framing. This was chosen over cast-in-place concrete because of better cost, time and placement.

The team also decided early to construct two temporary trestle systems outward from the shore, describing them as "a roadway" for the three cranes and semi truck needed to transport and set materials. Surveyors used high-tech GPS instruments to exactly place the building and structural piles.

Combined with the challenging weather, the ever-moving ocean, and the vibrations caused by the constant pile driving operation, workers had to face the task of building 25 to 60 feet above the ocean.

The feats didn't end there. Extra foundations were needed for the wind turbines, which were assembled on the trestle system then lifted over the water and into place by a 250-ton crane. A worker 115 feet up guided the blades into position.

Work on the pier and pier house occurred simultaneously. At times there were as many as 100 workers – including tradesmen, carpenters, and artisans — on site.

Clancy & Theys says ongoing safety meetings were held, and its corporate safety director inspected everything regularly. As a result, there were no OSHA recordable or lost time incidents.

Best Highway Project: I-40 Slope Stabilization/Rock Slide Removal, Haywood County

Founded in Robbinsville, NC in 1952, Phillips & Jordan is a general and specialty contractor known for its experience with land clearing, earth moving, underground utilities, erosion control, storm drainage, and debris management projects. "P&J has been a part of some of the largest disasters in history. The World Trade Center, Hurricanes Andrew and Katrina, but none of those prior events brought the complexity and danger as this project," said Dudley Orr with Phillips & Jordan.

Most of those areas of expertise were called on when the firm was hired to tackle a major rock slide onto four lanes of I-40 near the North Carolina-Tennessee border. First task: clear the road of 75,000 cubic yards of soil, trees and boulders. That took 45 days. Second task: stabilize the mountain slope to prevent another slide — while vehicles, many of them commercial trucks, resumed passage below.

Phillips & Jordan's primary subcontractor was Janod, Inc., which has handled slope stabilization assignments all over the world.

Not only was the work daunting, so was the contract. The state Department of Transportation wanted intermediate completion in 60 days, or the contractor would be penalized \$20,000 a day — and action was to begin during the week between Christmas and New Year's Eve. Regardless of the icy, windy conditions at that particular time (the governor had declared a weather emergency), work was urgent because the road closure was affecting local residents, who faced hours-long delays going to work, and school, etc., and affecting commerce, as semis' loads were unable to use a vital in-

terstate corridor to access the region and beyond.

Janod brought on Golder Associates, Inc. of Greensboro, NC and Manchester, NH for quality assurance, field engineering to adapt the DOT design to encountered conditions, coordinating details among all project participants and making a master spreadsheet for drilling, anchor installation, and testing available to the state Department of Transportation. "Golder brought clarity to a daunting process of record keeping and analysis," said Orr.

How do you fix a mountainside? Well, you don't just go to it. You have to be on it. Personnel, equipment, and materials all needed to be on the slope 900 feet above the highway to perform the remediation. To facilitate moving equipment and steel, Janod used a heavy-lift helicopter for 120 hours to get rock bolts and related items up to where they were needed. "Without the foresight and willingness to utilize the helicopter, meeting the project timeline goals would not have been achievable," according to Phillips & Jordan. Once completed, the Janod team had installed over 16,000 LF of tensioned anchors as well as another 33,953 LF of passive anchors. All of the approximately 50,000 combined LF of anchors was installed using the heavy lift helicopter that was crucial to the completion of the job. "This work was unprecedented for production under difficult terrain and weather conditions and a tribute to the team that got it done," said Pete Ingraham, Golder's lead geotechnical engineer on the project.

There were other complications: in some parts of the mountainside, actual rock mass strength was not as consistent as tests had indicated it would be; in other parts, subsurface water was found, forcing a design change from tensioned bars to a passive an-

chor system. The original scope of work changed so much that eventually, 18 supplemental agreements were signed.

Worksite hazards abounded, and as Phillips & Jordan told the Pinnacle judges, "the margin for error with all of the work was very slim." Special safety plans were needed for fall prevention, slope access, rigging, blasting, working under the heavy lift helicopter, traffic management, tree removal, and respiratory protection, just to name a few. Nevertheless, it was a safe site; the most severe injury was to a subcontractor's finger. In just sixty-six contract days, the team of workers succeeded in their efforts to stabilize the slope so that the vital transportation corridor could be reopened. With numerous changes and revisions to their work during this time, the contract sum overran. With pro-rata there were no liquidated damages assessed to Phillips and Jordan.

Best Highway Project: I-40 Widening, Raleigh/Cary

Wilson-based S.T. Wooten Corp., founded in 1952, is known for competence in widening, grading, paving, lighting and noise wall work — all of which came in handy when it was general contractor for a 6.23-mile-long design-build project for the state on busy I-40 in Wake County.

Wooten was tasked with widening this stretch of highway and four bridges. Architect/engineer was Rummel, Klepper & Kahl of Raleigh. Major subcontractors included T&H Electrical Corp. of Wilson, Stay Alert Safety Services of Kernersville, Clark Pavement Marking of Apex, Fred Smith Co. of Raleigh and Smith-Rowe of Mt. Airy.

Please see page 5





Carolinas AGC

Continued from page 4

Some days, this particular stretch of highway handles as many as 130,000 vehicles. Adding trucks to haul debris from and materials to the worksite would only worsen the already-overburdened area, plus increase hazards. That's when CEO Seth Wooten decided the only way to go was up – as in an overhead conveyor system.

Wooten personnel opted to erect one conveyor for asphalt and one for stone over I-40 to the median at the NC 54 interchange. The placement of conveyors also allowed Wooten to deliver construction water via pipeline to a water tower in the median, further reducing project trucks' impact on traffic.

Staff at S.T. Wooten Corp. developed the conveyor system; Design Service Inc. of Wendell engineered the overhead truss system.

Wooten had utilized the overhead conveyor system on a previous project to convey dirt across U.S. 1, but the company says "...Nobody in North Carolina had ever conveyed stone and asphalt over a roadway for a construction project before."

Cleverness continued when the Wooten team used warm mix asphalt for outside shoulder strengthening in one section of the highway. That reduced the cooling time between each layer of asphalt and increased the distance that could be strengthened in each night's operation – saving time.

Over a 23-month period, S.T. Wooten personnel worked about 180,000 man hours and subcontractors worked about 125,000

man hours but there were no lost time accidents. S.T. Wooten monitored the project's budget with Heavy Job cost tracking software.

David Farmer of subcontractor T&H Electrical in Wilson, praised the project. "The ability of S.T. Wooten to assemble a winning team and to keep all members focused on achieving the project goals was in itself a success," Farmer said. "Wooten's approach began at the pre-bid stage to gather input from each discipline on any potential constructability or scheduling conflict. From there it was carried forward to the build stage. That approach along with the NCDOT's willingness to sign on with the schedule and construction approach lead to the project success. Lead designer RK&K's close working relation with all parties, especially the NCDOT, cut lost time to a minimum."

Farmer added: "Our participation was made easy from others' hard work."



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CPN 2012 Star Awards: Successful Projects Spur Economic Development in the Triad

BEA QUIRK
— The North Carolina Construction News

The city of Greensboro grabbed the spotlight at this year's CPN of North Carolina Star Awards presentation last month, as both honorees hailed from the Triad city.

One building looks to the past, while the other one looks to the future. But both demonstrate — and contribute to — the ongoing economic vitality of the area.

The International Civil Rights Center & Museum won for projects with budgets under \$20 million, while the Joint School for Nanoscience and Nanotechnology (JSNN) won for projects costing more than \$20 million.

The Star Awards are presented annually for construction excellence. The selection is based on the merits and challenges of the project. In presenting the Star Awards, CPN honors the general contractor along with other member who participated in completing the projects.

"The Civil Rights Center is huge for the Piedmont in terms of what it stands for in the civil rights movement," says Fred Patrick, who chaired the awards committee. "It was challenging to get it done, but it was a great story for the community, and the contractors came together to get it done."

"Nanotechnology replaces tobacco and textiles, and the JSNN Building takes the Piedmont in to the 21st century," Patrick continues. "It's our most technically sophisticated building ever." He is also director of facilities design & construction at UNC-Greensboro.

Penny Whiteheart, executive vice president of the Piedmont Triad Partnership, an economic development organization, says the group was proud and excited that both awards went to Greensboro projects that are helping bring attention and prosperity to the area.

"The Civil Rights Center is helping Greensboro emerge as a destination and cultural center that brings visitors' dollars into the community," Whiteheart observes. "The JSNN Building brings together the best of academia, science and business on



the cutting edge of nanoscience for the economic development of the community."

The \$7.5-million Civil Rights Center is a Smithsonian-quality museum housed in the restored 1929 F.W. Woolworth's that was the site of the first civil rights-era sit-in in February 1960. The deteriorating building — included on the National Register of Historic Places — has been transformed into a 45,000-square-foot, three-story facility that hosts 30,000 square feet of exhibit space, plus a gift shop and a 180-seat theater.

"The project was very challenging," says Daniel Estes, president of Greensboro-based Weaver Cooke Construction, the project's general contractor. "But you don't get asked to do these kinds of historically significant projects every day. The subcontractor community pitched in and stepped up to the plate to make it happen."

Some of the challenges were financial. The project began in 2004, but by July 2005 work was halted due to a lack of adequate funding. Work started up again in spring 2009, and the project was finished in nine months in time for the sit-in's 50th anniversary on February 1, 2010. Weaver

Cooke and the subcontractors put in long hours seven days a week to pull it off.

"The owners did a phenomenal job in securing reasonable financing and making sure all the parties were paid," Estes says.

The building's age and condition added to the difficulty of the project "It's always a challenge to repurpose an historic building — and we also found the drawings were not accurate," says George Selkirk, associate principal with The Freelon Group, the project architect.

The biggest surprise, he adds was "the amount of water that had collected in the basement" due to underground streams discovered during construction.

First the water had to be removed. Then the basement was totally renovated, including adding a new slab on grade with an extensively engineered drainage system. This was needed to control the moisture levels in the building, a major concern in a museum.

"The ways the construction team helped resolve issues was as good as any I've seen," Sulkirk notes. "And the executive committee pulled the resources together to make things happen that needed to occur. Everyone was committed."

For museum co-founder Earl Jones — who helped save the building from being demolished to make way for a parking lot 16 years ago — the reality of the final center exceeded his expectations.

"It's beyond my wildest dreams," says Jones, an Alamance County native who was 11 at the time of the sit-in. "It's a crown jewel for the entire Triad and the state and is a major economic engine for downtown Greensboro." Jones is a former long-time Greensboro city council member and state legislator.

The museum attracted 70,000 people in its first year and had 100,000 visitors last year.

The contractors and subcontractors working on the JSNN Building in the Gateway University Research Park also shared a sense of pride in being involved in a unique project that contributes to the vitality of the Triad area.

The \$64-million, 105,000-square-foot project is a collaboration between North Carolina A&T State University and UNC Greensboro. Nanoscience is the study of molecules and atoms, and the related technology manipulates particles measured in nanometers, particles 1,000th the width of a human hair. It encompasses industries such as pharmaceuticals, biotech, aerospace, semiconductors, chemicals and defense.

In addition to serving as an educational center for students, the center will also serve as a center for research and innovation, resulting in the creation of new businesses and additional jobs for area residents.

Says Sam Kerr of Charlotte Glass Contractors, "This was a unique project that will help the region, and we were glad to be part of it. It's cool for us to say that we were involved in it."

At the peak of construction, there were about 450 workers on site, and 96% of the subs were from a 100-mile radius. Construction began in December 2009 and was completed two years later. It was built to

Please see page 7

NORTH CAROLINA CONSTRUCTION NEWS

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CPN 2012 Star Awards

Continued from page 6

meet gold LEED certification.

HDR Architecture designed a glass-and-steel structure that manages to exude a welcoming feel. The focal point of the structure is an egg-shaped auditorium – which seats up to 232 – visible to the public through floor-to-ceiling glass walls.

“The biggest challenge was the time frame, and we only succeeded because we took a team approach,” says John Merrill, executive director of the park. “For example, the construction team met every Friday morning, and that kept everyone on the same page.”

The building was a joint venture between Greensboro-based Samet Corporation, SRS, Inc., Gallatin, TN and the Barton Malow Company, a Southfield, MI firm with expertise in building laboratories and research facilities.

Helping the project move quickly and efficiently was the extensive use of Building Information Management (BIM).

Says Samet’s Ken Grube, “This project had so much piping and ductwork, if we hadn’t coordinated with BIM, we would still be building it right now. It eliminated conflicts and kept track of changes. This was a textbook example of the value of using BIM for a project.”

Because of the nature of the work, even the most basic building systems were far more complex than for typical commercial buildings. This included process piping, electrical, plumbing, HVAC and chillers. To meet stringent vibration-canceling requirements, the facility was anchored on bedrock.

Commissioning WorCx, Jamestown, NC was the commissioning agent for the chiller plant for the new JSNN building. President Tom Foster, Jr., PE was engaged by the owner to ensure the facility was operating in an energy efficient and sustainable manner. Envelope commissioning was also done to evaluate the building envelope to insure the skin components worked effectively to repel moisture and save energy.

Grube describes the 7,000-square-foot clean room as a “hospital on steroids.” To minimize any contamination, people working inside the room as it was being built wore haz-mat suits.

Please see page 8



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It's Not Just Online Any More

CHRIS HEARN – The North Carolina Construction News



We spend time at Qudeso looking at the changes affecting online marketing that impact our clients. Gone are the “good old days” where businesses, large or small, could buy a domain, put up an inexpensive website, sit back and wait for the magic to happen. Equally gone is the inattention many companies and organizations gave to network security and database protection. Is your information really safe, or is it time to make changes?

If your online marketing strategy is more than a couple years old, it's time for some spring cleaning and there are some steps you should consider to make sure your customers still consider your products and services first. Do they find the information you provide relevant, useful and possibly entertaining? Take a good look at your analytics. Consider updating the information you display and see if your marketing dollars are focused on the right people and places. You should look at competitive sites just to see if they “get it” or are they even more vulnerable.

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Chris Hearn is Co-Founder of Qudeso, a North Carolina-based full service marketing firm. For more information call 919-395-1802 or email chearn@qudeso.com.



CPN 2012 Star Awards

Continued from page 7

Those working on the sophisticated building never lost sight of the importance of what they were doing. “The Joint School is state-of-the art for the east coast,” says Foster. “Nanoscience is an emerging science and the Gateway University Research Park will attract professionals and start-up companies to the Triad area. Plus students from UNC-Greensboro and NC A & T State University can now learn and work in a world-class educational and research facility.”

The 2012 CPN Star Award for a project under \$20 million was presented to the International Civil Rights Center & Museum. Members participating in this project in-

cluded: Weaver Cooke Construction; Brady Trane; Connor Gwyn Schenck; Carolina Bank; J.D. Clark Company; Johnson's Modern Electric Co; City of Greensboro, ECS Carolinas; DARI / D.H. Griffin and Duke Energy

The 2012 CPN Star Award for a project over \$20 million was presented to The Joint School of Nanoscience and Nanoengineering. Members participating in this project included: Samet Corporation; Brooks, Pierce, McLendon, Humphrey & Leonard; Chandler Concrete; City of Greensboro; Commissioning WorCx; Duke Energy; ECS Carolinas; Gateway University Research Park; Hoffman & Hoffman, John J. Kirlin, LLC, Johnson's Modern Electric Co.; Ron Rothrock & Associates; Scott Insurance Company; Sparrow, Wolf & Dennis, PA; Sutton-Kennerly & Associates and UNC-Greensboro.

State Lien Law

Continued from page 2

ings about the changes, and passage is not assured when the full legislature takes the revisions up in the short session of the General Assembly this summer.

John M. Sperati, a construction lawyer with Smith Debnam Law in Raleigh, says his clients are divided. “It's a knife that cuts both ways,” Sperati says. “For general contractors and owners, some of those things are good. But for subcontractors, it creates burdens on them. We pushed to take out those burdens. North Carolina is one of a handful of states that have constitutions protections in lien laws. Some of the proposed changes would have removed the constitutional protections.”

Melissa Dewey Brumback, a litigator with Ragsdale Liggett PLLC in Raleigh who focuses on construction, also remains leery of further versions to the lien law. “My concern with the various proposals to modify the current lien statute relate to my representation of design professionals; that is, architects and engineers,” Brumback says. “Currently, the design professionals are usually in the best position with regard to lien rights, as they are usually the first and often the last to furnish services to improve a property. This enables them to work well with their owner-client regardless of the owner's temporary financial issues. Because the lien ‘relates back’ to the date of first service, the designer does not have to press for late payments from the owner quite as quickly as subcontractor or supplier

needs to do. They can work with an owner experiencing temporary financial issues without risking their own lien priority.”

Some of the proposed revisions to the Lien Law have attempted to change the current lien law priority in an effort to reduce the potential “hidden lien” issues for title insurance companies. While the proposal on the table right now does not significantly alter anything for architects and engineers, I remain concerned that future efforts to deal with the “hidden lien” issue may revive proposals that put the design team's early lien rights at risk,” Brumback says.

Sperati recognizes that his clients have competing needs, which means there likely won't ever be agreement on changing the law. “The best compromises are ones that nobody is really happy with. I'm still concerned about the changes for subcontractors and suppliers, particularly the bond claim on state-owned projects. For the general contractors, those things are fantastic. But it could hurt the people providing labor and materials. For folks that are small suppliers, it puts a recordkeeping burden on them that may not justify the cost.”

He's hopeful that a provision exempting everything under \$10,000 will be approved as part of the eventual package. “If it went through as it is, I think everybody could live with it. But additional changes could hurt. If those provisions from last year sneak back in, my clients would be more unlikely to support it.”

Readers are welcome to visit www.ncconstructionnews.com for updates on the NC lien law revisions.

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