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Ribbon Cutting Ceremony at Eisenhower Middle School

By Bob Pedatella, Vice President



Members of the NJLCA, local dignitaries, and contributors joined faculty and students of Eisenhower Middle School at a ribbon cutting ceremony held on June 10th. The official dedication ceremony was held in what were once neglected courtyards that have been transformed into two outdoor classrooms by volunteers and contributors of this massive project, which was created utilizing over 1600 man hours and approximately \$100,000 worth of materials and services.

The project was one of hundreds that took place across the nation as part of the 2010 PLANET Day of Service. In attendance were NJLCA leadership, President Jody Shilan, Vice President Bob Pedatella, Director of Operations Gail Woolcott, and Director Pieter van Westervelt; Acting Superintendent Richard Kuder, Acting Principal Steve Raimo, and Acting Vice Principal Rob Shean of Eisenhower School; local dignitaries Wyckoff's Deputy Mayor Kevin Rooney and Senator Bob Gordon's Deputy Chief of Staff Matt Marinello; volunteer companies; contributing companies;

the Friends of Wyckoff; and Eisenhower Middle School faculty and students.

Dozens of local landscape contractors and green industry suppliers created the outdoor classrooms for the 7th and 8th grade students. These students studied various ways to counteract the urban island heat effect, reuse of materials, the path of the sun, and did additional research to mitigate the heat in the courtyards, while creating a learning environment. The construction included an arbor, pergola for shade, a pondless waterfall, a butterfly garden, planters for vegetable gardens (to be used by the Home Economics classes), stepping stone paths, assembly of a greenhouse, and the installation of various native trees, shrubs, and perennials.

Volunteer and contributing companies included: AI D. Landscaping & Tree Service, All Season Services, LLC, All Service Contractors Equipment, Aquarius Supply, Benks Land Services, Borst Landscape & Design, Cal,

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A Message From The President

As we all know, Punxsutawney Phil recently emerged from the ground and saw his shadow. What this means is that we can expect another six weeks of winter weather (and hopefully some snow). Like the people in Punxsutawney PA, the NJLCA has its own annual tradition signaling that spring is just around the corner – it's the 2010 New Jersey Landscape Trade Show and Conference on Wednesday, February 24th. The NJL Trade Show and Conference continues to be the largest Trade Show on the east coast that focuses on you, the landscape contractor. With new speakers, more vendors and a fantastic awards program, this year's trade show is guaranteed to start your season off right. So make sure you register right now.

Although the trade show is our most popular event of the spring we have much more in store for you, like Pizza Night on March 12th, where there's all you can eat and drink, and Tony DeFeo makes sure that nobody leaves empty handed.

For those of you that are always looking to improve your professional skills, the CLT written exam is just around the corner on March 27th. Seating is limited so please sign up early

Just to keep you updated – your Combined Board held its annual Planning Session on January 21st, where we committed to providing additional value to you, our members. So be on the lookout for some exciting new initiatives that will help improve your business this year. I would like to thank all of our Past Presidents who attended the meeting, including Jim Stewart, Jack Caldwell and Tony DeFeo who offered their insight and advice and a special thanks to George Futterknecht for facilitating the meeting,. We are happy to see and hear a historical perspective on how the NJLCA has grown over the last 43 years and these gentlemen are simply a wealth of knowledge and experience.

We continue to bring you dynamic speakers at our monthly membership meetings and this month is no different. You asked and we answered... Jan-Marie Traynor, Chairwoman of the Landscape and Horticultural Technology Department of County College of Morris will be giving an exciting hands-on computer demonstration utilizing one of the most popular landscape design software programs in our industry DynaSCAPE. This "must see" presentation will be offered at our next membership meeting being held at Krehel Automotive Repair in Clifton. We would like to take this opportunity thank Krehel for sponsoring this meeting and also thank all of our sponsors. We are always looking for event sponsors and have found that sponsorship provides a great networking opportunity for our members while providing the sponsoring company terrific exposure to contractors who truly need their products and services.

Once again our Legislative Committee deserves a big thank you! Legislative Chair Michael Kukol, member Miles Kuperus Jr., and our own Administrator, Gail Woolcott orchestrated a meeting

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Liam and Eilish Donnell, Camberly Gardens, Cedar Hill Nursery, Chris Hricik, Chris James Landscaping, Christopher Muller, Dan Como & Sons, DC Freeman, Downes Forest Products, Frank's Truck Center, Friends of Wyckoff, Gail Woolcott, Garrett Planten, Green Meadows Landscaping, Horizon Landscape Co., Jake Shilan, Jennifer Salmon, Jody Shilan Designs, Joe Bolognese, John Deere Landscapes, Kathy and Mike Bowers, Kindergan Landscaping, Kodiak Landscape, Kodiak Tree Experts, Lori and Jim Chen, Nancy Maphis, Plant Health Care, Inc., Premium Aquascapes, Ramsey Building & Paver Supply, Rob and Alex Shean, Roberto Guitierrez, Shemin Nurseries, SnapEdge, Steve and Alexander Raimo, Tech Terra Organics, United Rentals, The Weglarz Family, Wilson Horticultural Group, Wyckoff DPW, and the Wyckoff Education Foundation.

The PLANET Day of Service on Earth Day, April 22, 2010 mobilized members to organize volunteer landscape projects in communities across the country, including New Jersey.



with the commissioner of the Department of Labor, which had a direct positive effect on H-2B policy. Because of the Legislative Committees hard work, NJ landscape contractors are now in line with the rest of the country for this program. In addition, Michael and Drew Shepherd are continuously cultivating relationships that have positively and significantly influenced the revisions for the new Tree Expert and Landscape Irrigation contractor laws.

Kudos to the Legislative Committee for protecting our rights as landscape contractors and for positively affecting such important changes in our industry.

NJLCA Members Give Back

By David Cavilla, CLT, Community Projects Committee Chairman

NJLCA members have proven this spring and summer that they are willing to “put their money where their mouths are” in giving back to our communities. The following are some of the members that have gone out of their way this year to reach out and help those in need. If you feel you should be included in future articles, please include us on your press release list so we know what great things your company is achieving!

All Season Services of has helped two military families in Elmwood Park and Hasbrouck Heights with maintaining their properties while their loved ones serve our country, as part of NJLCA's relationship with Project Evergreen's Greencare for Troops program.

Chris James Landscaping (CJL) has donated a three-man, garden-enhancement crew to rejuvenate Ridge School's once beautiful courtyard-teaching garden to its original glory. CJL has also donated services to Project Evergreen military families.

Countryside Landscape and Aspen Companies redid landscaping in front of the Vernon PAL building to beautify the building entrance. They reshaped and weeded the beds, added new plantings and mulch, and installed a new walkway in the back of the building.



Duke's Landscape Management provided a spring cleanup and general landscape rejuvenation including pruning, bed edging and mulching of Camp Warren located in Columbia NJ.

Farmside Landscape & Design recently performed the installation of 9 monuments to be raised at a local memorial park along with annual plantings and mulching.



Jacobsen Landscape Design & Construction completed general cleanup, pruning, planting, turf repair and ornamental plant care at the Fell House & Children's Aid and Family Services Healing Garden.

On Friday April 30, 2010 at Haskell School, Bob Pedatella of **Kodiak Landscape & Design** taught the third graders how to plant the Eastern Redbud tree (*Cercis canadensis*) that was donated by **Birch Hill Nursery** of Wayne. " I tell them about Arbor Day and why we're planting trees - how trees die, how you can protect them and how you can help them survive." It was the twelfth year that Kodiak Landscape Design has planted a tree at Haskell Elementary School.



Lawns By Yorkshire, NETS Basketball, the Land Conservancy of New Jersey, and Partners in Parks teamed up to help clean-up Branch Brook Park in Newark , NJ.

Peter Kikot of **NJ Landscape Consulting Services** brought donated medical supplies and some that he had purchased himself to help the thousands who had fled the epicenter near P au P to find relief in the south in Cayes. Peter stayed for seven weeks of total time in three week intervals and then made a return trip a third time to bring more donated money and supplies to help buy food and to deliver more critical medical equipment.



Raimondi Horticultural Group employees teamed up with students and volunteers from Bergen Community College to give away spathiphyllum plants, proven to remove toxins such formaldehyde from the air.

Chris Raimondi, CLP, president of The Raimondi Group, Inc. and an adjunct professor in the college's Horticulture Department, spearheaded the initiative, a PLANET Day of Service project to “spread the word” about the air-purifying qualities of indoor plants.



Plant recipients toured the department's greenhouse and conservatory and pledged to tell fellow students, faculty and friends about spathiphyllum's clean-air qualities.

On June 24, **R&S Landscaping's** experts brought a variety of plants and perennials to the Ridgewood Whole Foods, located at 44 Godwin Avenue, and used them to teach children the best ways to plant and care for their very own butterfly garden. Known for its extreme commitment to community greening, R&S Landscaping also provided each child in attendance with three butterfly attracting plants in a small Whole Foods pot to help them start their own butterfly garden at home.



YardApes held its 5th Annual Bob Razor Golf Classic to benefit the YardApes Charity Fund which helped support a new playground for students in New Milford, CT. YardApes is also proud to offer no-cost landscaping through the GreenCare for Troops program. In addition, YardApes beautified the property of Brookfield Public Library in CT as part of their PLANET Day of Service project.



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Partnering to Work Smarter

By Jim Paluch, JP Horizon

Have you ever thought of the power of partnering with your people? There is a group of innovative companies around North America that have harnessed the collective genius of their leadership and frontline employees to actually improve what they do every day and get results that have kept their businesses and the people in them growing in uncertain times. Over the past 4 years, more than 400 great Green Industry companies have worked with JP Horizons and learned to Work Smarter. Many of those success stories in fact have happened with our NJLCA members as they have increased profits, improved processes to drive out waste and, most importantly, according to participants, created a culture of people who communicate and continually win as they work more effectively. From learning to get out of the yard faster in the morning to improving paper flow, operating procedures and everyday communications, there are hundreds of ways that Working Smarter makes a difference in any company.

There are common threads of experience and results that confirm the power of the Working Smarter program and help everyone get consistent and measurable results. The first common factor, and it might surprise you is **FUN**. Company owners and leaders often talk about the fun they are having as the program evolves throughout their organization and they consistently meet for an hour each week. Even though some sessions feel more difficult when you really dig into a process and make improvements, the overall experience is fun, and a feeling of camaraderie and team always results.

Another common theme is **IMPROVED COMMUNICATION**. The opportunity to meet across department lines and gain an understanding of the importance of everyone's job creates a safe atmosphere to share ideas and challenge current states and processes. A rallying cry in Working Smarter is to stay "soft on the people and get hard on the processes" and when companies get this concept, things really begin to happen. As communication has improved in these companies, it has brought about the third common theme: **RESULTS**. Everyone has stories to tell of a team exercise and what they discovered or an unexpected leader stepping up to teach or improved attitudes or a Working Smarter event that produced an idea resulting in hundreds or thousands of dollars saved.

Above all of these great results and accomplishments, one thing stands out the most ... companies are **DEVELOPING PEOPLE**. It is apparent in every organization that focuses on Working Smarter that creating an opportunity for people to grow and take ownership in finding ways to work more efficiently is a win both today and years into the future as leaders develop. Focusing on an individual's growth is the first and most critical factor to bringing about success however that might be defined in the organization.

FUN, IMPROVED COMMUNICATION, and SUCCESSFUL BUSINESS RESULTS all add to the **QUALITY OF LIFE** for everyone in an organization. Whether direct results are found in profits,

family time, growing sales, or simply enjoying your job, they all can be translated into an improved quality of life that everyone deserves. As one Working Smarter Company that is now on a four-day work week discovered, the improvements they have chosen to implement not only make their work better but also give them another day each week for personal time.

Serious About Partnerships

If our effort to support members with the very best education, NJLCA has joined in partnership with JP Horizons to make sure you can benefit from Working Smarter. With the feedback of so many great people successfully training in every size and profile of company, the program has recently been revised to make it more flexible and much more affordable for you to take advantage of as well. Be sure to attend the introductory webinar on September 22nd at 4:00 to find out how this partnership will not only help you build your business in 2010 by Working Smarter but will also generate educational funds for the NJLCA and Horticulture schools in New Jersey.

Join us on September 22nd at 4:00 pm
for a special webinar for NJLCA Members
To register visit www.njlca.org

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Details can be found at...

www.njlca.org

Marketing Your Certification

Has marketing your PLANET-certified status been working for you? Kennette Reed, CLP, a nationally known performance improvement and staff retention consultant, shares several ideas.

- Write a blog post about it, or announce it to your youtube.com, facebook.com or linkedin.com connections.
- Send an announcement letter to current and prospective clients.
- Make your company's claim to fame be that you not only have certified employees, you have more Landscape Industry Certified Technicians (formerly CLTs) or Landscape Industry Certified Managers (formerly CLPs) than any company in the state, city, or region.
- Talk up your highly trained, industry-certified, & continuously learning staff. Make their professional designations a main selling point in every proposal, presentation, or marketing piece. Toot your own horn, if you want to stand out from the crowd.

Reed owned an interiorscape business as well as multilocation retail floral businesses, and authored *How to Break Into the Interior Landscape Business*. Visit her Web site at interiorscapeconsulting.com.

Other marketing ideas can be found in the PLANET Certificant Toolkit. Promotional items are available for both certified individuals and for companies with certified employees. Check out the following resources and ways you can put them to use.

Company owners

- Tri-fold brochure "Do you know who's working for you?" Can be customized by your printer or hand-stamped with your company information.
- Envelope-size, bill stuffer: Insert with invoices to let customers know you have PLANET-certified staff.
- Residential door hanger: Print on pre-cut door hanger stock customized by your printer with your company information or hand-stamped.
- Bumper magnet template: Place on vehicle doors and trailers.

Certified individuals

- Lapel pin: Wear on your company uniform to show off your certification status wherever you go.
- Certification logos: Use on letterhead, business cards, stickers, signs, and even on your Web site.
- Press release templates: Fill in personal and company information, and then send to your local media.

Not Yet Certified?

If you are not certified, what is holding you back? There is no better way to secure more business by advertising your company and employees professionalism. In addition, you may be eligible to receive significant discounts on your insurance coverage. What follows offers a look at what certification is and how it can help



you. Should you have any questions, please contact NJLCA at (201) 703-3600 or visit www.NJLCA.org.

What is Certification?

The certification of specialized skill-sets affirms a knowledge & experience base for practitioners in a particular field, their employers, and the public at large. Certification represents a declaration of a particular individual's professional competence. Certification enhances the employability & career advancement of the individual practitioner or employee.

Many organizations in today's competitive and challenging economy have recognized their workforce as their most valuable asset. Likewise, individuals, whether employed or self-employed, know that now more than ever before they must acquire and maintain more comprehensive skill-sets to ensure their own attractiveness and ability in the workplace.

The potential benefits of certification include:

- Higher wages for employees in the form of bonuses, education assistance or higher salary.
- A more productive and highly trained workforce for employers.
- Prestige for the individual and a competitive advantage over non-certified individuals in the same field.
- Enhanced employment opportunities.
- Assisting employers in making more informed hiring decisions.
- Assisting consumers in making informed decisions about qualified providers.
- Protection of the general public from incompetent and unfit practitioners.
- Establishment of a professional standard for individuals in a particular field.

Why Should You Become Certified?

Bill Hildebolt, PhD., Landscape Industry Certified Manager & Technician puts the reasons into his own words. "With so many service providers to choose from, informed customers (and they're the ones we all want to nurture) should be looking for the professional, the company that can stand behind its work with experienced, trained employees. ... That's where PLANET comes in, with its many resources, and yes, with its newly branded certification program—Landscape Industry Certified." (Source: PLANET News, February 2010).

**The next Certification Exam will be held on
October 2, 2010. Register TODAY!**

A Warm Welcome To Our New Members

Region One

All Season Services, LLC
William J. Ficker
Saddle Brook, NJ

Blossoming Beginnings
Lisa Rivera
Hackensack, NJ

Blue Grass
Fred Devanna
Teaneck, NJ

EverGrow Landscaping
Clifford Toth
Old Tappan, NJ

Garden Jeannie
Jean Grossman
Montclair, NJ

GreenJeans Landscaping
Sean Rahbari
Englewood, NJ

Hewitt Landscaping Inc.
Paul Hewitt
Old Tappan, NJ

Lauf Landscaping
Alex Lauf
Clifton, NJ

S & G Landscape & Construction
Sofia Martinez
Passaic, NJ

Schellhorn Grounds Services
Matt Schellhorn
Bloomfield, NJ

Shoreline Exterior Concepts
Karen Wrenn
Waldwick, NJ

T.E.S. Inc.
Peter D. Smeretsky
Kearny, NJ

Vasile Green Landscape
Christopher Charnesky
Wyckoff, NJ

Vee's Botanicals
Venessa DiBona
Fort Lee, NJ

Region Two

CompuPay
Sharon Skibbee
Somerset, NJ

Custom Landscaping and Lawn Care
Frank Leloia
East Brunswick, NJ

Ditch Witch
Tom Reszkowski
Millstone, NJ

The Dutch Touch, LLC
Mathilda A. Oostveen
Hillsborough, NJ

Greener Solutions Landscaping
Charles Geiger
Rahway, NJ

Lambert Boone Landscape & Lawn
Joseph Pinnock
Scotch Plains, NJ

Mava Landscape Inc.
Marco A. Vasquez
Summit, NJ

Region Three

Morano Landscape LLC
George Morano
Brick, NJ

New Concept Lawn & Landscape
Nestor A. Vela
Jackson, NJ

**Rt. 34 Landscape/ Rt. 9 Hardscape
Supply Yard**
Brian Balasare
Wall, NJ

Region Five

Clover Garden Center
Bobby Brandimarte
Mt. Laurel, NJ

Danny Jr's Landscaping, Inc.
Taylor S. Piotti
Sicklerville, NJ

**Medical Consultants Instructional
Training Center (MCITC)**
Carol Johnson
Cherry Hill, NJ

Region Six

A. & D. Landscaping
Aaron Dubnoff
Montville, NJ

Auburn Sky Landscaping
Darren Tubito
Lafayette, NJ

Banta Landscaping Co.
Kevin Banta
Boonton, NJ

Greenwood Tree & Lawn
Trevor Hoeckle
Montville, NJ

Guscos Landscaping, LLC
Oscar L. Vargas
Dover, NJ

Kuchta Designs
Kevin Kuchta
Dover, NJ

Landscapes by Sharon
Sharon Hollfelder
Towaco, NJ

RJS Landscapes
Robert Smith
Oak Ridge, NJ

Out of State

Benner's Gardens Deer Fencing
Betsy Seitchik
Phoenixville, PA

H. Eberhard Nurseries
John Eberhard
E. Moriches, NY

Mohawk Red International Slate Co.
Matt Enny
Middle Granville, NY

Pro-Motion Consulting
Phil Hardwood
Farmington Hills, MI

NJLCA Mission Statement

The New Jersey Landscape Contractors Association is a group of professional landscape contractors dedicated to advancing the integrity, proficiency, and continued growth of the landscape industry. As an NJLCA member, you receive valuable information and benefits indispensable to the on-going success of your business.

Recruit or become a member today!

Connecting the Client to the Cloud

by Steve Delmar, Allenport

You no longer need a server to access all of your documents. You can simply connect your computer network to the clouds. Cloud computing updates and protects your information giving you piece of mind. Why work in an office when you can work in the clouds? Now you can access your files while on your ride on mower or skid steer!

What is Cloud Computing?

In simple terms, cloud computing is a server in the clouds. It can enhance your existing office networks and in some cases, eliminate the need for servers and network software altogether. According to "WhatIs.com," cloud computing is a general term for anything that involves delivering hosted services over the Internet.

A cloud service has three distinct characteristics that differentiate it from traditional hosting. It is sold on demand, typically by the minute, hour, or seat; it is elastic -- a user can have as much or as little of a service as they want at any given time; and the service is fully managed by the provider (the consumer needs nothing but a personal computer and Internet access).

But cloud computing can be so much more. Cloud computing can allow the client (you) to access your files anywhere at any time and always have the most recently updated version of that file at your fingertips. In addition, cloud computing can offer you a way to ensure that your system is always backed up, off-site, to avoid catastrophic data loss should there be a fire, tornado, or any other problem that prevents you from accessing a traditional server. In addition, you can access these files even when you are offline. Can't find that Wi-Fi hotspot when you are in the field? No need to worry. With some cloud computing solutions, you can often make changes to your files from anywhere, and once you connect to the internet again, cloud computing can automatically update your files. According to Forbes.com "...today's data explosion means that "the cloud" is more relevant than ever."

How Does It Work?

Supercomputers today are used mainly by the military, government intelligence agencies, universities and research labs, and large companies. Cloud computing applies that kind of power to

your daily computing needs.

Whether you are a small or large business, cloud computing will become a part of your everyday use soon. With some services, you may sign up for a software solution, whereby you will no longer need to spend hundreds of dollars upgrading your Office Suite software, it will be included in your package. Others offer IT services, where one simple phone call (included with a different package) will assist you in fixing any problems you are encountering.

When you are ready to "connect to the cloud," the most important things to look at are whether you are able to expand in the future, should you need more space, if a software solution is available, whether the costs will save you dollars over your current server, software, and IT solutions, and that it is user-friendly depending on your computer knowledge. Whichever you choose, cloud computing is the future, as we are all outgrowing the storage capabilities of a server and no longer want to spend thousands on IT solutions.

Steve Delmar is a Senior Account Administrator for Allenport. AllenPort's service includes 24 x 7 support for all IT issues related to accessing an office's data. AllenPort is easy to install, administer, and maintain. With your account you get lower IT costs, access to office data anytime, anywhere, access to common office applications, access to email, secure, continuous backup of all company data, synchronization of any number of computers, file sharing between company members, and distributed printing from any Internet connection. For more information and a free demonstration call Steve at (609) 951-3700 or email steve@allenport.com.





New Jersey Construction Liens: Strict Requirements for Cost Effective Protection

by Sarah M. Canberg, Esq. and Eric L. Probst, Esq.



In this difficult economy, filing a construction lien is a cost effective tool available to contractors, subcontractors, and in some states, sub-subcontractors, which provides leverage to obtain payments owed on projects and converts unsecured debt into secured debt. The statutory right to file a lien includes stringent filing requirements for both residential and commercial construction projects that must be strictly followed to create a valid lien on the property. One minor error or misstep could invalidate an otherwise properly filed lien and, in some states, subject the party filing the lien to penalties. While a lien does not ensure payment for work provided, it is a tool that contractors and subcontractors should have in their collections toolbox. This article outlines the strict filing requirements for liens pursuant to New Jersey.

New Jersey Construction Lien Law, N.J.S.A. 2A:44A-1 et seq.

As a result of the 1993 revision of the New Jersey construction lien statute, mechanics liens are referred to as construction liens. Generally, pursuant to New Jersey law, a contractor, subcontractor, or sub-subcontractor that conducted improvements on real property pursuant to a written contract can file a construction lien against the owner of real property. An owner includes the tenant of real property. Prime contractors (including architects and engineers), subcontractors, and sub-subcontractors are the only parties eligible under New Jersey law to file a construction lien. Any contractors or suppliers outside of these three categories are not eligible to file a construction lien. The party filing a construction lien must have provided work, services, material, or equipment pursuant to a written contract that outlines the duties of each contracting party.

Pursuant to New Jersey's Construction Lien Law, the amount of the lien claim is the lesser of the contract price or the value of the unpaid work, services, material, or equipment provided under a contract. The lien must be filed with the county clerk in the county where the property is located within 90 days of the date the last work, services, material, or equipment was provided for which payment is claimed. Therefore, it is important to keep detailed records of the dates of work provided under the contract. As proper filing is accomplished when the clerk receives and records the lien paperwork, the party filing the lien should not wait until the last day of the 90-day time period to file the lien. In addition to filing the lien with the county clerk, the claimant must serve the owner and any affected contractor or subcontractor within ten (10) days of filing the construction lien with the county clerk.

For "residential construction contracts" in New Jersey, the contractor must file a Notice of Unpaid Balance and Right to File Lien ("NUB") with the county clerk and on the owner prior to filing the construction lien claim. A "residential construction contract" includes home improvement work on one- or two-family dwellings, condominiums, townhouse complexes, and large-scale residential construction projects.

Pursuant to the New Jersey lien statute, the party filing the NUB must also simultaneously serve a demand for arbitration on the owner and fulfill all the requirements and procedures of the American Arbitration Association ("AAA"), or other mutually agreed upon alternative dispute resolution process. Within 30 days of receipt of the arbitration demand, the arbitrator must determine whether the NUB filing complied with the NUB requirements, the validity of the proposed lien, the amount of the lien claim, and the allocation of the arbitration costs. If the arbitrator issues a determination in favor of the party that filed the NUB allowing a lien to be filed, a lien claim must be filed within ten (10) days of receiving the arbitrator's determination. Failure to strictly comply with the NUB and arbitration requirements is fatal to the validity and enforceability of residential construction contract liens.

The filing of a NUB cannot substitute for the timely filing of a construction lien. It merely preserves the priority right of the later filed construction lien and places potential purchasers on notice of the claimant's potential lien.

The lien claimant can enforce the lien by initiating an action in New Jersey Superior Court in the county where the property is located within one (1) year of the last date the work or services were provided. However, the owner of the property may also force the claimant to enforce the lien by making a written demand for the claimant to bring an enforcement action within 30 days of the written demand. If the party that filed the lien fails to bring the action within either the appropriate one-year or 30-day period, the claimant forfeits the right to enforce the lien.

Timing is critical in the lien process. The NUB and arbitration components of a residential construction contract lien application cut into the 90-day period the contractor has to file the construction lien. It is imperative that contractors have internal bookkeeping procedures that trigger the commencement of the lien process – assembling documents, contacting an attorney – within the first 30 days of the 90-day period. The New Jersey legislature is expected to further amend the Construction Lien statute in early 2010. The anticipated amendments seek to clarify and revise the filing requirements for "residential construction contracts."

Conclusion

The right to file a lien in New Jersey is statutory construct. The requirements for filing a lien must be strictly followed in order to successfully create a valid lien claim. Landscape professionals should devise an internal bookkeeping protocol to monitor when the lien, or in the case of residential construction, a NUB and arbitration demand, has to be filed.

NJLCA Member Eric Probst, Esq. is a Principal of Porzio, Bromberg & Newman and a member of the firm's Commercial Litigation department. He practices in the areas of Complex Commercial Law, Mass Tort, Product Liability, and Consumer Fraud. For more information, email elprobst@pbn-law.com or call 973.889.4320.

Caveat Contractor: Make Sure Your Home Improvement Contracts Comply with the Law to Avoid Lawsuits

By Eric L. Probst, Esq.

(c) *Cancellation Clause:* Each home improvement contract must contain language advising the customer of its three-day right to rescind the contract. The language must be conspicuous and typed in at least a 10-point font. Each state has its own language requirement that mirrors the federal cooling-off law, which likewise provides customers with three days to reconsider their decision to purchase the home improvement. Contractors must ensure that their rescission language is state specific, especially if they do business in more than one state.

(d) *Final Payment:* New Jersey's Home Improvement Practices Act ("HIP") provides that the final certificate of occupancy has to be issued before final payment can be collected. It also proscribes a home improvement contractor from requesting a final payment before the home improvement work is completed.

(e) *Start and Completion Dates:* The New Jersey HIP requires home improvement contracts to contain start and completion dates, or a time period when the work will commence and end.



Failure to commence or finish work within the time period is a violation of the HIA and the CFA and can result in the award of treble damages.

Repercussions: Statutory violations lead to certain outcomes. Here are only a few examples of what might occur:

(a) *Contracts/Change Orders cannot be enforced:* Courts will not enforce contracts and change orders if they are oral or not signed by the parties. The statutes are clear—contracts and change orders must be in writing. As a result, a contractor will not be able to enforce the terms of a verbal change order should a dispute arise. Therefore, if the parties agree to change the payment terms, the contractor must prepare a written change order signed by both the customer and contractor evidencing the change.

(b) *Lawsuits against the installer:* A customer can recover attorneys' fees, legal costs, and treble damages under the CFA; the

CFA only requires the customer to prove a CFA or HIA violation to recover attorneys' fees and frequently, attorneys' fees will eclipse the amount of the customer's actual damages. Thus, a relatively minor dispute can turn significant with an attorneys' fee award. As noted above, a customer's damage award will be trebled if the customer proves that the CFA violation caused the customer to suffer an out-of-pocket loss. Not surprisingly, treble damages are incentives for plaintiffs' attorneys to file lawsuits.

(c) *State Action:* Besides a private lawsuit, the New Jersey State Attorney General can sue contractors or fine them through county consumer affairs departments. Multiple suits and fines may result in license revocation. Moreover, these lawsuits are independent of the customer's suit. Thus, the contractor can face double damages for the same violation.

What to Do: Contractors must take a two-step approach to avoid or minimize the impact of these lawsuits:

(a) *Contract Review:* The contractor must first review its contracts. Most, if not all, home improvement contracts violate consumer fraud and home improvement statutes in some way. Contracts typically include provisions that violate the acts or fail to include provisions the acts require. An attorney's contract review will reveal how the contract must be revised to comply with the law.

(b) *Sales/Construction Practices:* Employee education is the second critical step to avoid these lawsuits. Home improvement contractors should adopt better business practices – get all contract documents signed and dated, do not misrepresent any feature of the home improvement and advise the homeowner of all material components of the transaction. Contractors may want to consider having change order forms on the construction site that contain signature lines for the customer and salesperson. Even if the homeowner insists that a signed change order is not required insist on having the customer sign the change order. Similarly, if construction drawings are required, insist that the homeowner verify the improvement's location.

Conclusion: Consumer fraud and home improvement statutes are powerful weapons for the customer when suing contractors. To negate the customer's statutory advantage, home improvement contractors must review (and probably revise) their contracts to ensure statutory compliance. Further, you should evaluate your business practices to insure that they comply with the law, treat customers fairly and timely return phone calls and e-mails. If these steps are taken, most CFA claims will never arise, allowing the home improvement contractor to commit its resources to performing home improvement work rather than defending lawsuits.



New Jersey Landscape Contractors Association

NJLCA
Growing Every Day

Twelfth Annual

New Jersey Landscape Contractors Association

2010 Golf Classic

September 15, 2010 • Black Bear Golf Course • Franklin, NJ

*New in 2010:
\$1,000,000 Shot!
(40 year annuity)*



*For a good
time call
NJLCA at
(201) 703-3600*

11:00 am Registration, Lunch & Putting Contest

1:00 pm Shotgun Start

6:00 pm Dinner, Awards, and Entertainment

Pool and Sports Club available to non-golfers! (Must pre-register)

Gold Sponsors:



2010 SPONSOR PROGRAMS

Join many companies in sponsorship of the 12th Annual Golf Classic to be held at the Black Bear Golf Club in Franklin, NJ on September 15, 2010. You will receive the following recognition for your contribution:

- PLATINUM SPONSOR** – Contribution of \$5,000
- Includes Dinner Sponsorship
 - Recognition in the NJLCA Newsletter and Directory
 - Company logo on 12th Golf Classic advertising
 - One half-page color ad in the NJLCA Newsletter
 - 15 advertisements in NJLCA E-Blasts
 - Two articles for the NJLCA Newsletter
 - Eight players for the NJLCA 12th Annual Golf Classic
 - Four tickets to NJL 2011 Trade Show & Conference

- GOLD ENTERTAINMENT SPONSOR** – Contribution of \$2,500
- Recognition in the NJLCA Newsletter and Directory
 - Company logo on 12th Golf Classic advertising
 - One year of advertising space on NJLCA Website
 - Four players for the NJLCA 12th Annual Golf Classic
 - Four tickets to NJL 2011 Trade Show & Conference

- GOLD PHOTOGRAPHY SPONSOR** – Contribution of \$2,500
- Company logo on photo frames given to all golfers with their photo.
 - Recognition in the NJLCA Newsletter and Directory
 - One year of advertising space on NJLCA Website
 - Four players for the NJLCA 12th Annual Golf Classic
 - Two tickets to NJL 2011 Trade Show & Conference

- SILVER BEVERAGE CART SPONSOR** – Contribution of \$1,250
- One year of advertising space on NJLCA Website
 - Four players for the NJLCA 12th Annual Golf Classic
 - Two tickets to NJL 2011 Trade Show & Conference

- BRONZE PRACTICE GREEN SPONSOR** – Contribution of \$1,000
- One year of advertising space on NJLCA Website
 - Two tickets to NJL 2011 Trade Show & Conference

- BRONZE DRIVING RANGE SPONSOR** – Contribution of \$1,000
- One year of advertising space on NJLCA Website
 - Two tickets to NJL 2011 Trade Show & Conference

- RED OAK SPONSOR** – Contribution of \$825
- Four players for the NJLCA 12th Annual Golf Classic
 - Sign on Tee

- MAPLE SPONSOR** – Contribution of \$475
- Two players for the NJLCA 12th Annual Golf Classic
 - Sign on Tee

- COPPER SPONSORSHIP** – Contribution of \$150
- Sign on Tee

- GOLF SHIRT SPONSORSHIP** – Please call us at (201) 703-3600 for details
- Company logo printed on sleeve of golf shirt given to all attendees
 - Sign on Tee

DON'T SEE A PACKAGE THAT MEETS YOUR NEEDS? DESIGN YOUR OWN PACKAGE! Contact NJLCA at (201) 703-3600 to discuss. (Min. of \$500)

2010 Golf Classic

September 15, 2010 • Black Bear Golf Club

11:00 am Registration, Lunch & \$10,000 Putting Contest

Shotgun Start 1:00 pm • Dinner, Awards, Entertainment 6:00 pm

Golf and Dinner Member \$175.00 • Non-Member \$200.00

Dinner Only Member \$60.00 • Non-Member \$75.00

(Pool and Sports club pass for non-golfers attending Dinner)

Hole-In-One Prizes • Raffle Prizes • \$10,000 Putt-off • \$1,000,000 Shot

For additional information please call 201-703-3600

Sponsorship Form

Company _____

Contact Person _____

Phone _____ Email _____

Yes, we would like to be a _____ Sponsor.

Enclosed is a check PAYABLE TO NJLCA for \$_____.

Registration Form

Name of Attendees	Golf & Dinner	Golf & Dinner
	Member	Non-Member
1. _____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	<input type="checkbox"/>	<input type="checkbox"/>
	Dinner Only	Dinner Only
	Member	Non-Member
1. _____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	<input type="checkbox"/>	<input type="checkbox"/>

My preferred foursome is: _____

Name _____

Phone _____

Email: _____

Enclosed is a check payable to NJLCA, in the amount of \$_____

To pay by credit card check one: MasterCard VISA AMEX Discover

Card number: _____

Cardholder's Name: _____

Billing Zip Code: _____ Exp. Date: _____

Mail Checks and Forms to:

NJLCA Golf Classic, 465 Boulevard, Elmwood Park, NJ 07407
or fax **(201) 703-3776**