

The News of the Home Builders Association of West Florida

# CORNERSTONE

October 2017

## 'Connected' Homes: Trends and Key Legal Issues

page 7



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## Cornerstone

*The official magazine of the  
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# In This Issue

## Cornerstone



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# Cover Story

Connected Homes: Trends and Key Legal Issues ..... 7-8

## CORNERSTONE COLUMNS

President's Message: Gene's Floor Coverings  
and Auxiliary Council A Winning Combination ..... 5-6

## FHBA NEWS

What Has FHBA Done for Me Lately ..... 9

## FEATURE STORIES

New Single-Family Home Size Trends Lower ..... 14

Shares of Builders Reporting Labor Shortages Rises Again ..... 16

NAHB News: The Value of Attic Storage and Access ..... 19

NAHB News: NAHB Members Testify Before the  
U.S. Int'l Trade Commission on Softwood Lumber ..... 19

Joint Employer Bill Would Give Clarity, Certainty to Small Business ..... 20

## ASSOCIATION NEWS

HBA News: HBA Fall Golf Classic  
Registration Form October 19, 2017 ..... 11, 17

HBA News: Top 10 Reasons to Do Business With HBA Members ..... 10

Like Us on Facebook ..... 10

HBA News: Get Involved With Committees  
and Councils Call 850.476.0318 ..... 10

HBA Member Benefits ..... 15

Membership News: New Members, Thanks for Renewing, & More ..... 21

Spike Club Update ..... 22

HBA News: HBA Member Rebate Program ..... 23

## DEPARTMENTS INDEX

Next Issue Deadlines ..... 4, 8, 10, & 21

Advertisers Index, Web, & Email Addresses ..... 22

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# GENE'S FLOOR COVERING & THE AUXILIARY COUNCIL

## A WINNING COMBINATION

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HELPING THE LESS FORTUNATE IN OUR COMMUNITY

As President of this association, I deal with many issues that impact our industry. While the issues are important to our overall success, so is the active involvement of our members who take the time to get involved with our councils and committees.

From my involvement in the HBA, it is truly a highlight for me to see the positive energy and enthusiasm of the Auxiliary Council. For many years Auxiliary Council has remained consistent with its generosity supporting many non-profits who primarily help children in need.

Like you, I'm busy with running my business and I get caught up in the events of everyday life. While we are all busy, I want to take this time to ask you to support the Auxiliary Council. How? If you don't have the time to join the council, encourage an employee to join.

more "A Winning Combination" page 6



## President's Message



*"With your  
support, the  
Auxiliary  
Council can  
continue to  
help the less  
fortunate  
in our  
community."*





## October Membership Meeting

**Gene's Floor  
Covering / Auxiliary  
Council Auction**

**October 26, 2017  
5:30 p.m. – 7:30 p.m.**

**RSVP: Vicki Pelletier  
vicki@hbawf.com**

## GENE'S FLOOR COVERING & THE AUXILIARY COUNCIL

### A WINNING COMBINATION

**from page 5**

You can also attend the Auxiliary's Auction in October at Gene's Floor Covering. Not only could you donate an auction item, you could come to the event and bid on great items you could use. The food is unbelievable and the music great too.

Each year, the Auxiliary Council raises the bar a little higher. At this event, they hope to raise over \$15,000. In 2017 with the funds raised from the auction the Auxiliary was able to make donations to Gulf Coast Kids House, in both Escambia and Santa Rosa County, Disc Village, Put a Kid in Camp Scouts program, a scholarship to Rufus Capel III, to attend the National Society of Black Engineers Conference, Matters of the Heart Sidney Reese Foundation, Ronald McDonald House, Pregnancy Resource Center and Operation Finally Home. Through the financial commitments and generous donations of auction items from our members of the HBA of West Florida the Auxiliary is confident they will achieve their goal once again in 2018.

Please help me in supporting the rich history and proven past of the Auxiliary Council. With your support, the Auxiliary Council can continue to help the less fortunate in our community. If you have any questions, please contact the HBA's Vicki Pelletier at 850-476-0318.



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# 'Connected' Homes: Trends and Key Legal Issues



**For most home shoppers, owning a smart home is no longer a dream — it's an expectation. Particularly among younger generations who have lived most of their lives in the digital era, staying connected is a way of life. So it's no surprise they want their homes to be connected, too.**

We've reached a point where the majority of consumers are not only willing to invest in it, but they are expecting their next home to be connected.

But with the potential for massive data collection, a gaping variance in product quality, and a dependence on software and software updates, there are some pretty important ramifications to consider.

Here is a look at the emerging trends in connected-home technology and potential liability concerns and ways to make sure you are properly conveying to customers any risks associated with this new and expanding market.

Stephen Embry, a partner with the law firm of Frost Brown Todd in Lexington, Ky., and Grayling Love II, product line manager at Eaton Corporation in Peachtree City, Ga., discussed these issues with NAHB's Construction Liability, Risk Management and Building Materials Committee at the 2017 Midyear Meeting.

**What does the exploding use of smart technologies mean for home builders?**

Home owners and purchasers will no doubt be asking builders more and more about smart homes and devices, and will expect builders to be knowledgeable, Embry said. How builders answer home owners' questions is a not just an issue of customer relations, but may also carry some legal risk avoidance ramifications as well.

In fact, a builder's best protection against exposure may be what they are able to tell home owners about these devices. One challenge we have with smart homes and the "Internet of Things" (IoT), however, is that there are not yet standards governing these devices. To the extent that there are some standards, they are not necessarily consistent and the law is not well developed.

To truly deliver a smart home to a customer, a builder needs to consider a number of different factors, Love added, including installing a smart home hub and devices such as door locks, light fixtures and appliances that can communicate over the same protocol as the smart home hub.

*more "Connected Homes" page 8*



## 'Connected' Homes: Trends and Key Legal Issues from page 7

**What are some of the risks associated with smart home devices?**

Some of these risks are presented by the hardware — the device itself, Embry explains. Some are presented by the software that runs them. And some are presented by the massive amounts of data generated and collected. So there are several concerns:

☆ **There are no real consensus standards governing design, manufacture or performance of these devices.** UL and other bodies are just beginning to look at these things.

☆ **To the extent there are laws and regulations, they are being enacted by all sorts of different agencies, leaving a hodge-podge of rules** with no consistent regulatory or legal direction. And there are very few cases outlining liability and how judges and juries may treat liability questions.

☆ **Some of these devices are poorly designed and made.** Often we don't know the useful life of these devices because there is little independent product assessment of anything. This means that there could be lots of potential failure modes that exist for a long time, with results that range from annoying to catastrophic.

☆ **Often there is no commitment by the developer to patch and update the software.** Think about how often you must update the software of your laptops, tablets and smart phones. These updates provide security from vulnerabilities and problems that are discovered. In the case of smart devices, we often don't know how long the company plans to support a product with software security upgrades or what a consumer must do to install them.

☆ **Some devices are being designed and made without considering the risks** of the devices being exploited or, in common parlance, hacked. This can result in devices like baby monitors or TVs being hijacked.

☆ **Finally, and importantly for builders, there are few if any installation quality controls or standards for the qualification of subcontractors installing these things.** How do builders make sure they are installed correctly? How do builders satisfy their



supervisory obligations? Most reported problems result from home owners — who don't understand the security implications — trying to install devices based on limited, nonexistent or unread instructions.

The best answer to all of these risks and unknowns related to smart home technologies, Embry and Love agree, is to have a good knowledge of the products you are installing, choose the products wisely, and diligently inform and educate your home buyers.

To learn more, including advice on ways to reduce the chance of smart home product issues and liability concerns, read our full-length Q and A with Embry and Love on NAHB's website at [www.nahb.org](http://www.nahb.org)

*Courtesy of NAHBNow.com*

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CORNERSTONE  
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**November 2017**

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# November 2017

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## GET INVOLVED IN HBA COUNCILS AND COMMITTEES!

### Auxiliary Council

*Meets Monthly*

*2nd Tuesday of each month*

### Sales & Marketing Council

*Meets Monthly*

### Membership Committee

*Meets Monthly*

*2nd Thursday of each month*

### Board of Directors

*Meets Monthly*

*3rd Tuesday of each month*



Home Builders Association of West Florida

## TOP 10 REASONS TO DO BUSINESS WITH AN ACTIVE ASSOCIATE MEMBER

1. They support the industry at the local, state and national levels.

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6. They are strong supporters of local and state PACs and BUILD-PAC.

7. They are a major source of non-dues revenue through sponsorships, advertising, etc.

8. As industry partners, they are a valuable resource for business and management tips.

9. They are heavily invested in your business success: You win, they win!

10. Why wouldn't you do business with a member?



Home Builders Association of West Florida



# FALL GOLF CLASSIC

October 19, 2017 • Marcus Pointe Golf Club  
Golfers Registration Form

**Registration: 11:30 a.m.**

**Shotgun: 12:30 p.m.**

**Limited to 128 Players**

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Email: \_\_\_\_\_

Name: \_\_\_\_\_

Handicap (Required/ Max 30) \_\_\_\_\_

Email: \_\_\_\_\_

Name: \_\_\_\_\_

Handicap (Required/ Max 30) \_\_\_\_\_

Email: \_\_\_\_\_

Name: \_\_\_\_\_

Handicap (Required/ Max 30) \_\_\_\_\_

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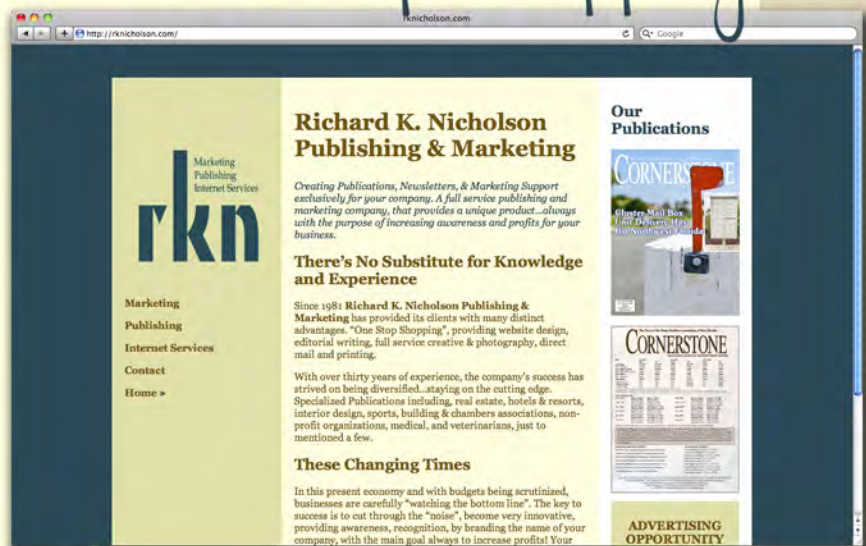
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# New Single-Family Home Size Trends Lower

**After increasing and leveling off in recent years, new single-family home size continued along a general trend of decreasing size during the second quarter of 2017.** This change of

the last two years marks a reversal of the trend that had been in place as builders focused on the higher end of the market during the recovery. As the entry-level market expands, NAHB expects typical new home size to fall as well.

According to second quarter 2017 data from the Census Quarterly Starts and Completions by Purpose and Design and NAHB analysis, median single-family square floor area was slightly lower at 2,388 square feet. Average (mean) square footage for new single-family homes declined to 2,616 square feet.

On a less volatile one-year moving average, the recent trend of declines in new home size can be seen on the graph above, although current readings remain elevated. Since cycle lows (and on a one-year moving average basis), the average size of new single-family homes is 10% higher

at 2,622 square feet, while the median size is 13% higher at 2,403 square feet.

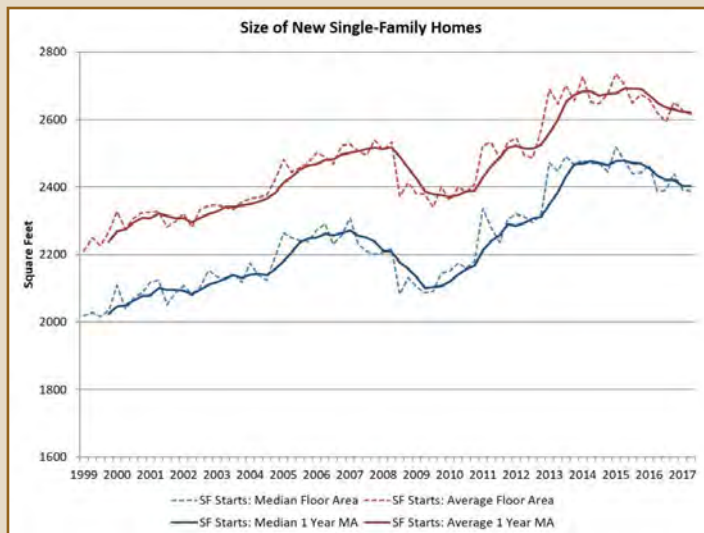
The post-recession increase in single-family home size is consistent with the historical pattern coming out of recessions. Typical new home size falls prior to and during a recession as home

buyers tighten budgets, and then sizes rise as high-end homebuyers, who face fewer credit constraints, return to the housing market in relatively greater proportions. This pattern was exacerbated during the current business cycle due to market weakness among first-time homebuyers. But the recent declines in size indicate that this part of the cycle has ended, and size will trend lower as builders add more entry-level homes into inventory.

In contrast to single-family patterns, new multifamily apartment size is down compared to the pre-recession period. This

is due to the weak for-sale multifamily market and strength for rental demand.

*Courtesy of NAHBNow.com*





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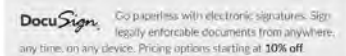
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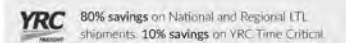
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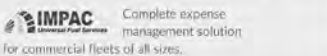
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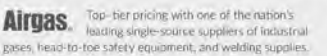
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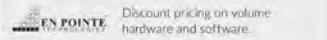
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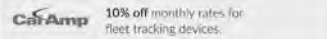
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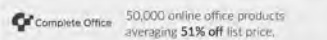
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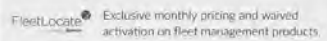
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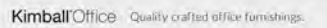
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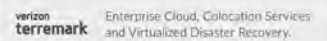
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# SHARE OF BUILDERS REPORTING LABOR SHORTAGES RISES AGAIN

**Labor and subcontractor shortages have become even more widespread in July of 2017 than they were in June of 2016, according to single-family builders responding to special questions on the NAHB/Wells Fargo Housing Market Index (HMI) survey.**

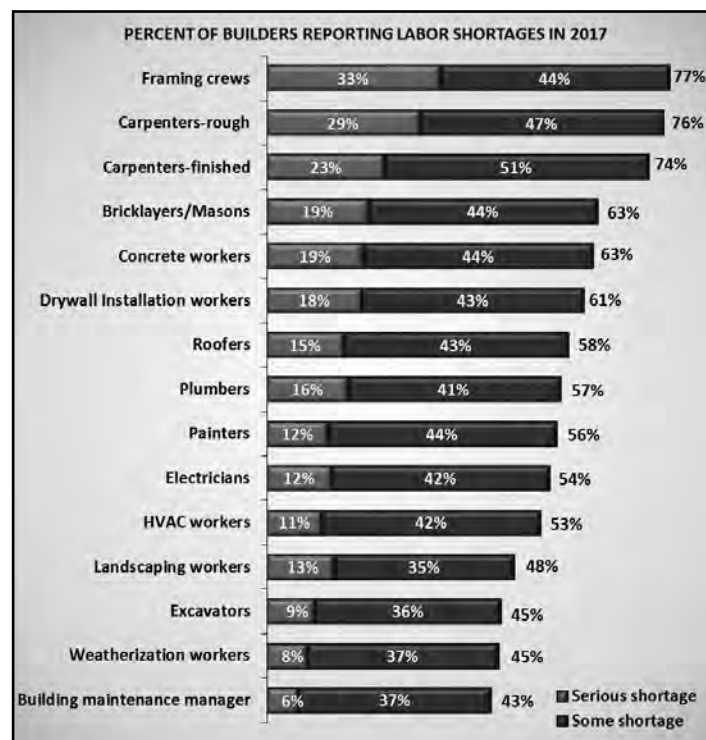
The July 2017 HMI survey asked builders about shortages in 15 specific occupations that were either recommended by Home Builders Institute (NAHB's workforce development arm) or that NAHB found to be particularly significant when tabulating Bureau of Labor Statistics data for a recent article on Young Adults & the Construction Trades. Shortages (either serious or some) were at least fairly widespread for each of the 15 occupations, ranging from a low of 43 percent for building maintenance managers to a high of around 75 percent for the three categories of carpenters (rough, finished and framing).

vey, the incidence of shortages was higher for subcontractors than for labor directly employed by builders in each of the 15 occupations. At the top of the chart, for example, 85 percent of builders reported a shortage of framing subcontractors, compared to "only" 77 percent who reported a shortage of framers directly employed.

Historically, this has not always been true. An average shortage calculated across the 9 trades that NAHB has covered in a consistent way since 1996 shows that labor and subcontractor shortages used to track each other fairly closely. Since 2013, however, a persistent gap has opened, with the 9-trade shortage for subcontractors running 5 to 7 percentage points higher.



A possible reason is that some workers who were laid off and started their own trade contracting businesses during the housing downturn have returned to working for larger companies. This would improve the availability of workers directly employed by builders slightly, while shrinking the pool of firms available for subcontracting.



In addition to labor that single-family builders employ directly, the HMI survey asked about shortages of subcontractors, which have become even more widespread lately. In the July 2017 sur-

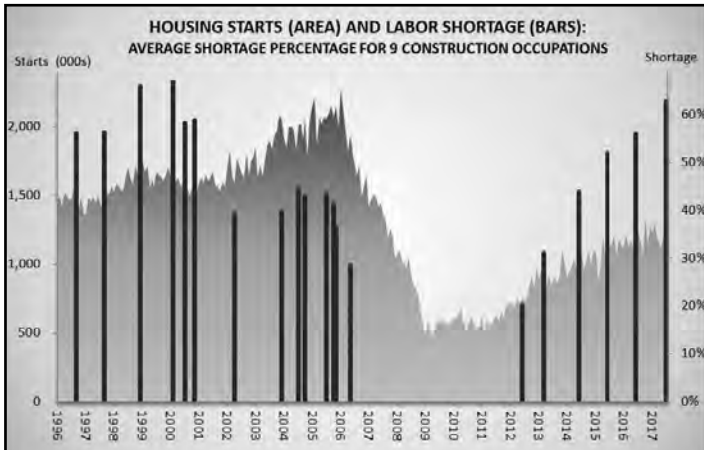
The 9-trade average shortage for labor has increased from a low of 21 percent in 2012 to 56 percent in 2016, and now 63 percent in 2017. And this trend has been very consistent. For each of the construction occupations covered in both years, the shortage percentage, whether for labor directly employed or subcontractors, increased between 2016 and 2017—with the sole exception of excavator subcontractors, for which the percentage remained roughly the same.

The 9-trade average labor shortage is now at its highest since 2000 (which marked the end of an extended period of strong GDP growth that tightened many labor markets and drove the





overall unemployment rate down to 4.0 percent). The current labor shortage seems especially severe relative to housing starts, which have only partially recovered from their post-2006 decline.



Again, the historical pattern has been quite consistent across construction occupations. Shortages for most of the occupations are more widespread now than at any time since 2000. The exceptions are shortages that are at their all-time worst since NAHB first started asking the questions in 1996. For directly employed labor, the shortage of painters is now at its worst ever. For subcontractors, in addition to painters, shortages of framing crews and electricians are also at their all-time worst. For excavator subcontractors, the 2016 and 2017 shortages are essentially tied for worst all time.

The NAHB survey results are consistent with the latest numbers in the Job Opening and Labor Turnover Survey (JOLTS)



release from the Bureau of Labor Statistics. After a decline in May that now appears anomalous, the latest JOLTS shows the number of unfilled jobs in the construction industry rising significantly in June.

*Courtesy of NAHBNow.com*



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*For More Information see page 11*



# The Value of Attic Storage and Access

**With today's homes being constructed somewhat smaller than even just a couple of years ago, the value of increased storage space is becoming more important.**

This is evident by the ever-increasing and somewhat expensive, offsite mini storage facilities popping up on almost every corner. (A typical 5 x 5 space rents for anywhere from \$35 to \$80 per month, depending on the city).

This additional attic space in every home can be as little as just a few square feet or as large as the entire attic area. Other than storage, the space can also house the mechanical equipment of the home such as air handler units, water heaters, etc. This frees up valuable living space down below.

Whether the space is used for storage or not, the International Residential Code still requires an access to that space. The access can be through a scuttle hole or an attic stairway. The reason is to provide access for building inspectors, fire fighters, electricians and any of the trades that might need it.

Granted, not all areas of the country nor all styles of homes lend themselves to utilize this space, but for those that do, it is a marketable, value-added feature: storage space.

While many builders in various parts of the country take advantage of this opportunity, many do not. Whether omitting this useable space is just a regional habit, a structural fear or energy-efficiency compliance concerns, these issues have been resolved over the past several years.

The simplest and most cost-effective way to incorporate this space and its access is at the time of construction. The cost is minimal, usually less than \$400, which includes the cost of truss design, the materials and can include the cost of the attic stairway depending on its placement within the home. This load-bearing attic cavity can



be created whether the roof is of truss construction or site built and whether the attic is considered conditioned or unconditioned space.

For those with energy code compliance concerns, many new attic stairway products have been developed. There are stairway units on the market with R-5 to R-50 insulated doors that are weather-stripped and air tight. The use of an attic stairway makes access to the attic much easier and safer than going through a scuttle hole using a step ladder.

There are also aftermarket products that can be utilized to eliminate energy loss. The products developed and available today are not the same products as five years ago.

When deciding whether to incorporate an attic space, consider the advantages:

- Relatively low cost
- Added value for the home owner
- Easier and safer access
- Energy-saving and code-compliant products more readily available
- More living space is created

For builders seeking to offer a high value feature at a relatively low cost to their home buyer, the answer is just overhead.

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Courtesy of NAHBNow.com



# NAHB MEMBERS TESTIFY BEFORE THE U.S. INT'L TRADE COMMISSION ON SOFTWOOD LUMBER

**Two NAHB members testified before the U.S. International Trade Commission (ITC) on Sept. 12 as part of the ITC's final hearing to determine whether U.S. lumber producers have been injured as a result of softwood lumber import from Canada.** NAHB Build-PAC Chairman and Texas builder Edward Martin provided the ITC commissioners with the home builder perspective on selecting lumber for certain structural lumber applications during home construction.

Following up Martin's testimony, NAHB Board of Directors member and lumber company owner Thomas Baalman, Jr. described his experiences with the supply and demand conditions for lumber across the country, as well as his experience with builder preferences.

A nine-year softwood lumber agreement between the U.S. and Canada that established a system of fees and quotas on Canadian imports to the U.S. that were triggered in response to changes in the market price of softwood lumber expired in Oct. 2015.

Negotiations on a new agreement have continued to stall and a solution is not expected anytime in the near future. In November of last year, U.S. lumber producers filed a petition with the ITC, reigniting a long-term trade battle between the two countries.

## A Voice at the Table

NAHB is fighting to ensure American consumers have access to a stable, dependable and affordable lumber supply, and participated in the final ITC hearing to ensure builders' concerns were heard.

During his testimony, Martin urged the ITC to recognize that builders have specific preferences for Douglas Fir and Spruce-Pine-Fir (SPF) over Southern Yellow Pine (SYP) in certain instances, and specifically when framing homes. Martin flatly disagreed with statements by witnesses for the U.S. lumber producers who claimed that "wood is wood" and that any differences between SYP and SPF are "minor and don't matter much." Martin testified that view "is flat wrong."

In fact, Martin stressed that using SYP for wall framing results in complaints from customers because of SYP's "tendency to twist and warp, which causes the drywall to buckle, upsetting customers" and requiring repairs to the homes.

Echoing Martin's testimony, Baalman noted there was not much substitution of species because builders use what works best for them in order to meet local building codes. He also testified that selecting wood is not price-driven and disagreed with earlier testimony from witnesses for the U.S. lumber producers that builders will "pick the cheapest one." Baalman said "that isn't how it works in the real world." Indeed, in response to price questions from the ITC commissioners, Baalman testified that even though SYP is currently inexpensive, he has had no customers come to him wanting to switch to SYP to save money when framing a house.

A final determination from the ITC is expected sometime later this year.

For additional information, contact Felicia Watson at 800-368-5242 x8229.

*Courtesy of NAHBNow.com*



# Joint Employer Bill Would Give Clarity, Certainty to Small Businesses



**NAHB urged Congress to pass the bipartisan Save Local Business Act, legislation that would boost housing affordability and provide small businesses certainty and predictability by clarifying under law what constitutes a joint employer.**

Testifying before two subcommittees of the House Committee on Education and Workforce, NAHB Chairman Granger MacDonald said, “The line that once clearly separated two employers is so blurry that neither I nor others in our industry can see where it lies. As a business owner, this bipartisan legislation would provide clarity by ensuring that I am held accountable for my employees, but not those of another company. Codifying this definition will provide the legal certainty every employer deserves.”

In 2015, the National Labor Relations Board (NLRB) overturned decades of precedence in the case of Browning-Ferris Industries of California Inc. by radically expanding the traditional test for joint employer status in which a company must exercise “direct and immediate control” over an employment relationship.

Under the expanded standard, a company could be considered a joint employer if it has indirect control or the potential to determine the key terms of an employee’s employment, including hiring and firing, supervision, scheduling and the means and method of employment.

“In the aftermath of Hurricane Harvey, my focus is on getting families back into their homes,” MacDonald told lawmakers. “We have endured and rebuilt from bad storms before, and we’re doing

it again. But this time, it is with the added worry of whether my company could be held liable for the practices of contractors, third-party vendors, and suppliers that we have hired to help with this job and over whom we have no direct control.”

The NLRB’s expanded joint employer standard has provided little clarity on the level of control sufficient to create the joint-employer relationship, leaving home builders and other small businesses with no certainty or predictability in exercising many commonplace business practices. Exposed to unlimited and unpredictable joint employment liability, small businesses are finding it increasingly challenging to comply and therefore compete.

“This is particularly problematic for residential building firms, the majority of which have less than 10 employees and rely on an average of 22 subcontracting firms to build a home,” said MacDonald. “Limiting or deterring the use of independent contractors and subcontractors will reduce the number of local home building firms, raise construction costs and harm housing affordability.”

The Save Local Business Act offers a common-sense solution to the ambiguity created by the Browning-Ferris decision by affirming that a company may be considered a joint employer of a worker only if it ‘directly, actually, and immediately’ exercises significant control over the primary elements of employment.

“We urge Congress to act swiftly on this bipartisan bill, which would restore the traditional definition of joint employment that had been in effect for decades before the Browning-Ferris decision and provide a level playing field for all small businesses,” said MacDonald.

*Courtesy of NAHBNow.com*







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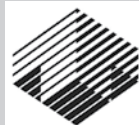
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