



MFC NEWS

"Building Understanding"

MFC will find out the truth about buildings and answer the hard questions.

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About MFC News

Myles F. Corcoran and his Team would like to share the best of what we've learned over the years about well constructed buildings and resolving construction disputes.

Please help us make this a "Construction Community" endeavor by sending us your feedback, comments, wisdom, and ideas for future issues. Call 831-476-4502 or email us at: mfcnews@mfcbuild.com.

Quote of the Day

*"Obtain and maintain workers' compensation insurance on **all** employees, including day laborers."*

Myles Corcoran

Wisdom Corner

We asked Ken Gorman, Esq., of Lombardo & Gilles, to speak to our staff as part of our continuing education series. He told us about an important case law that could dramatically effect contractors and owners. It involves extremely harsh penalties for licensed contractors who don't obtain and maintain workers' compensation insurance (WCI) for each of their employees.

Wright v. Issak (see attached pdf)

The Santa Cruz County trial court (Case CV150444) found that the contractor's license was automatically suspended during the period of the contract work because he failed to obtain WCI. Specifically, during the period he was working on the house and using five employees, the contractor under-reported payroll to the State Compensation Insurance Fund, thereby failing to obtain WCI for those employees. The trial court held, this failure to obtain WCI resulted in the automatic suspension of the contractor's license under California Business and Professions Code Sections 7125.2.

Building Tip

Get the full R-Value out of your insulation. Often, the actual R-Value of insulation is greatly reduced due to poor installation. It is not adequate to stuff stud bays with fiberglass batts.

For optimum performance, the insulation must be in contact with as many air barriers as possible. Examples of air barriers are: sheet rock, plywood, top and bottom plates, and studs. If not in contact with as many air barriers as possible, hot or cold air may flow through the insulation. Gaps and voids will allow convection to cycle heat through the building assemblies.

Tip: Blown-in cellulose greatly reduces the opportunity for installation error.

Micah Rodler, I/C

The penalty was even more harsh as he had to pay back all monies, \$27,000, that he had been paid by the homeowner for the contract, even though there was nothing wrong with his work. Finally, he had to pay \$107,000 in fines and attorneys' fees.

The last paragraph reads:

“The obvious statutory intent is to discourage persons who have failed to comply with the licensing law from offering or providing their unlicensed services for pay. Because of the strength and clarity of this policy, it is well settled that section 7031 applies despite injustice to the unlicensed contractor. ‘Section 7031 represents a legislative determination that the importance of deterring unlicensed persons from engaging in the contracting business *outweighs any harshness between the parties*, and that such deterrence can best be realized by denying violators the right to maintain any action for compensation in the courts of this state.’” (*Hydrotech Systems, Ltd. V. Oasis Waterpark* (1991) 52 Cal. 3d988,995, original italics.)

The Court of Appeal of the State California, Sixth Appellate District upheld the trial court's findings on 4/18/07 (H030399).