



MLA

**NEWS**

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Mid-America Lumbermens Association • P.O. Box 419264 • Kansas City, Missouri 64141-6264  
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BULLETIN NO. 979

SUMMER 2009

### *Annual Meeting of MLA Members*

## **Fall Fling Set For Nov. 5-6 in Kansas City**

**T**he “Fall Fling” is the Annual meeting of MLA members. This year’s seminar on Friday, Nov. 6 will be “Make Your Spot Shine,” by Phil Mitchell.

Both dealers and associate members appreciate the opportunity to mingle with one another and to exchange ideas. Again this year, we’ll have a casual yet highly informative and educational event that will be well worth your time.

### **Thursday, November 5**

**8:30 a.m.** – MLA Board Meeting, Hampton Inn & Suites Country Club Plaza

**5:30 - 6:30 p.m.** – Member meet-and-greet reception

**6:30 p.m.** – Dine-around - Associate members will host small groups of retail members at local hot spots. Experience the best of Kansas City cuisine!

### **Friday, November 6**

**7:30 a.m.** – Breakfast and Annual Meeting – This is your opportunity to meet leaders from the National Association, hear an update of MLA activities, install and recognize the new MLA Board of Directors and hear about special association programs.

**8:30 a.m.** – “Make Your Spot Shine” - Phil Mitchell (see page 7 for details)

**Noon** - Lunch sponsored by Federated Insurance

**1:30 p.m.** - Adjourn

### **Registration Information**

To attend, all you need to do is register. Complete the registration form and return it no later than Friday, Oct. 16. Let us know who is coming and we’ll do all the rest. (You are responsible for your own hotel reservations, as needed, and transportation expenses.)

This meeting is sponsored by Federated Insurance, your suppliers and your Association. This will be a fun get-together and a way to thank members for their support and membership. The cost to members is their time and travel expense. We’ll cover all the meeting expenses. (Nonmembers may attend for \$225 per person.)

### **Hotel**

Our headquarters hotel is the Hampton Inn & Suites Country Club Plaza – Kansas City. We were able to negotiate a fantastic rate of \$119 per night, single or double occupancy. Reservations may be made by calling the hotel at 1-816-448-4600. Guests must call before the Oct. 14 cut-off date and request the “Mid-America Lumbermens Association rate.” On the cut-off date, rates will return to their regular levels.

### **Golf**

Due to the timing of this event, we have not organized a golf event. If the weather looks favorable, you are welcome to arrange your own tee times in advance. There are many top-rated golf courses in Kansas City, and we’d be happy to help you arrange an outing. Just call Olivia at 800-747-6529.



**MLA Endorsed Insurance Provider**

# MLA BOARD OF DIRECTORS – 2008-2009

## *President*

### **John Duncan**

Schmidt Builders Supply, Inc.  
PO Box 8456  
Topeka, KS 66608  
785-354-1733/Fax: 785-354-1364

## *1st Vice President*

### **Gary Smith**

Smith & Sons Building Center, Inc.  
114 SE 2nd St.  
Anardarko, OK 73005  
405-247-3501/Fax: 405-247-7423

## *2nd Vice President*

### **Brad Isdell**

Town & Country Building Supply  
PO Box 451  
Higginsville, MO 64037  
660-584-5841/Fax: 660-584-5822

## *3rd Vice President*

### **Ken Blackmon**

Ken's Discount Bldg. Materials  
PO Box 450  
El Dorado, AR 71731  
870-862-4917/Fax: 870-862-7859

## *Immediate Past President*

### **Alan Clark**

Clarks Bldg & Decorating Center  
419 Westinghouse Dr.  
Hot Springs, AR 71901  
501-262-2262/Fax: 501-262-5129

## *Secretary/Treasurer*

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Bowling Green Lumber Co.  
700 W Champ Clark Dr.  
Bowling Green, MO 63334  
573-324-5400/Fax: 573-324-3520

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### **Woodie Acord**

Acord's Home Center  
251 Huntsville Rd.  
Eureka Springs, AR 72632  
479-253-9642/Fax: 479-253-8963

## *Kansas/Oklahoma Director*

### **Kevin Rasure**

Rasure Lumber Do It Center  
PO Box 418  
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785-899-7149/Fax: 785-890-2077

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PO Box 104266  
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### **Jim Bishop**

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2300 S 138th St.  
Bonner Springs, KS 66012  
913-422-1075/Fax: 913-422-1077

## *State Cmte. Chairman - Oklahoma*

### **Position Currently Open**

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### **Greg Smith**

E.C. Barton & Company  
3023 Browns Ln.  
Jonesboro, AR 72403  
870-932-6675/Fax: 870-931-9744

## *State Cmte. Chairman - Missouri*

### **Lowell Littrell**

Bethany Building Center  
1301 Main St.  
Bethany, MO 64424  
660-425-3132/Fax: 660-425-8807

## *Associate Director*

### **Clark Wiens**

Cedar Creek Wholesale  
PO Box 1900  
Broken Arrow, OK 74013  
918-258-9688/Fax: 918-251-6405

## *Associate Director*

### **Pat Sinclair**

Forest Products Supply Co.  
9264 Manchester  
St. Louis, MO 63144  
314-961-6195/Fax: 314-961-3509

## *Associate Director*

### **David Benner**

BlueLinx Corporation  
360 Inverness Dr. S.  
Englewood, CO 80112  
303-706-8417/Fax: 303-706-8739

## **Are You Getting Our Emails?**

Every two weeks, MLA sends an electronic newsletter to members and friends. If you're not receiving it, you're missing out on a lot of timely information, as well as regular legislative and regulatory updates.

Please send your email address to [mail@themla.com](mailto:mail@themla.com) so we can add you to the list so you'll get all our communications.

Information is an important benefit of membership and we don't want anyone to miss out!

## Arkansas Legislature Amends Mechanics' Lien Law

Mechanics' liens give the contractor, sub-contractor, or material supplier the ability to get a security interest in real estate for which construction materials and/or labor have been provided. Arkansas' statutory mechanic's lien is found at Arkansas Code Section 18-44-101 et seq. In the regular session of 2009, the Arkansas 87th General Assembly made several significant amendments to the mechanics' lien statute.

### Residential Projects

Of greatest significance to members of the Mid-America Lumbermens Association are the notice provisions that are required under the amended mechanic's lien law. Arkansas Code Section 18-44-115 requires a residential contractor to give notice of the potential for a mechanics' lien to the "Owner" of residential real estate. Residential real estate is defined as a residence containing four or fewer units.

Section 18-44-115 provides that no lien upon residential real estate may be acquired unless the Owner of the residential real estate has received a copy of the notice. The residential contractor has the primary responsibility to give the Owner the notice set out in this subsection. If the residential contractor fails to give the notice required under this subsection, then the residential contractor is barred from bringing a lawsuit to enforce any provision of his residential construction contract. As the typical member of the Mid-America Lumbermens Association is a material supplier, as opposed to a residential contractor, they may not be in a position to give the original notice. However, any potential lien claimant – including material suppliers – may also give notice. Consequently, as long as notice is provided to the Owner prior to supplying goods or labor, the notice shall be effective for all downstream lien claimants, notwithstanding that the notice is given after the project commences. For this reason, it may be prudent for members to provide notice to an Owner of residential real estate prior to supplying materials on a project.

The notice must be worded exactly as it is set out in the statute, and must be set out in boldface type. The notice may be incorporated in the contract, or it may be affixed to the contract, but it must be conspicuous. The required notice for residential real estate is set out in full below:

#### IMPORTANT NOTICE TO OWNER

**I UNDERSTAND THAT EACH CONTRACTOR, SUB-CONTRACTOR, LABORER, SUPPLIER, ARCHITECT, ENGINEER, SURVEYOR, APPRAISER, LANDSCAPER, ABSTRACTOR, OR TITLE INSURANCE AGENT**

**SUPPLYING LABOR, SERVICES, MATERIAL, OR FIXTURES IS ENTITLED TO A LIEN AGAINST THE PROPERTY IF NOT PAID IN FULL FOR THE LABOR, SERVICES, MATERIALS, OR FIXTURES USED TO IMPROVE, CONSTRUCT, OR INSURE OR EXAMINE TITLE TO THE PROPERTY EVEN THOUGH THE FULL CONTRACT PRICE MAY HAVE BEEN PAID TO THE CONTRACTOR. I REALIZE THAT THIS LIEN CAN BE ENFORCED BY THE SALE OF THE PROPERTY IF NECESSARY. I AM ALSO AWARE THAT PAYMENT MAY BE WITHHELD TO THE CONTRACTOR IN THE AMOUNT OF THE COST OF ANY SERVICES, FIXTURES, MATERIALS, OR LABOR NOT PAID FOR. I KNOW THAT IT IS ADVISABLE TO, AND I MAY, REQUIRE THE CONTRACTOR TO FURNISH TO ME A TRUE AND CORRECT FULL LIST OF ALL SUPPLIERS AND SERVICE PROVIDERS UNDER THE CONTRACT, AND I MAY CHECK WITH THEM TO DETERMINE IF ALL MATERIALS, LABOR, FIXTURES, AND SERVICES FURNISHED FOR THE PROPERTY HAVE BEEN PAID FOR. I MAY ALSO REQUIRE THE CONTRACTOR TO PRESENT LIEN WAIVERS BY ALL SUPPLIERS AND SERVICE PROVIDERS, STATING THAT THEY HAVE BEEN PAID IN FULL FOR SUPPLIES AND SERVICES PROVIDED UNDER THE CONTRACT, BEFORE I PAY THE CONTRACTOR IN FULL. IF A SUPPLIER OR OTHER SERVICE PROVIDER HAS NOT BEEN PAID, I MAY PAY THE SUPPLIER OR OTHER SERVICE PROVIDER AND CONTRACTOR WITH A CHECK MADE PAYABLE TO THEM JOINTLY.**

**SIGNED:** \_\_\_\_\_

**ADDRESS OF PROPERTY** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**I HEREBY CERTIFY THAT THE SIGNATURE ABOVE IS THAT OF THE OWNER, REGISTERED AGENT OF THE OWNER, OR AUTHORIZED AGENT OF THE OWNER OF THE PROPERTY AT THE ADDRESS SET OUT ABOVE.**

\_\_\_\_\_  
**CONTRACTOR**

### Commercial Projects

As used in the statute, "commercial real estate" means non-residential real estate or residential real estate containing five or more units.

*Continued on page 11*

## Unemployment Trust Fund in Jeopardy of Shortfall

Back in the 90s, the unemployment trust fund was actually so “flush” with money, there was a moratorium on premiums paid into the fund. Ah, for the good old days.

In what is still a somewhat confusing situation, Jim Garner, Kansas Secretary of Labor, has called for a meeting of the Employment Security Advisory Council on September 3 to start figuring out how to shore up the fund. Because the fund is financed by premiums paid by business owners, one of the remedies could be an increase in those premiums. In the current business climate, that is not welcome news.

With a current balance of \$350 million – in the 90s, it was more than \$700 million – the fund could be insolvent by November. June records indicate a payout of \$78 million in benefits to about 96,000 Kansans. Garner indicated that the State will seek a federal loan to shore up the Fund’s financial situation. It is likely those funds would be provided.

Contributing to the problem is the length of time benefits are paid – up to a year – and that the State granted some \$286 million in premium breaks over the past three years to “positive balance” employers. (Those are employers who don’t have a history of worker attrition in the more recent past.) Unfortunately, the Labor Department provided testimony in April 2009 that, with new tax increases in January and an infusion of federal stimulus money, the fund would be solvent until 2010. Even if conditions worsened, which they have, no one expressed concern the fund was in any danger.

This puts elected officials in an awkward situation as the idea of increasing premiums in a down economy makes for great campaign literature for their political opposition in the upcoming races. If the premiums are to be increased, it must be done by the legislature. As events transpire, we will keep you updated. In the meantime, it’s worth mentioning if you visit with your local state elected official anytime in the coming months.

## Tax Clearances Available Online

If you want to make sure a vendor or someone else you do business with is current on their taxes, the Kansas Department of Revenue has opened an online clearance feature on its web site so you can check out the tax status of such an entity.

By providing information into the site, the sender is provided with a certificate from the Revenue Department indicating they are current with their taxes at least for the next 90 days. Just a handy little feature you may want to keep in mind should the occasion arise.

## Career Opportunity

A wholesaler in the Kansas City Metro area is looking for someone to fill an inside sales position in their company. Long established and well respected, this is an outstanding opportunity to network with industry professionals and get a foothold on a career path in the building materials industry.

Qualifications should include:

- Would have an established trade territory
- Follow up with current clients
- Provide customer service with existing client base
- Support outside sales personnel efforts

One to three years of experience in the building materials industry is a prerequisite for this position. Some background in sales is a help along with a four-year degree, although that is not required. Employer provides 401(k), health insurance, paid vacation and sick leave. Compensation is negotiable and competitive.

Interested? If you are not, you may know of someone who is. If you know of someone who may want to pursue this outstanding opportunity, contact Art Brown at 816-561-5323 (cell is 785-249-0306.)

## Call Your Association Hotline For Assistance With:

Accounting Services  
Legal Services  
Insurance Information

Education & Training  
Certified Valuations  
Mergers & Acquisition

Regulatory Advice  
Benefits & Retirement Planning  
Credit & Background Checks

**Mid-America Lumbermens Association**

**Toll Free: 800-747-6529 • Phone: 816-561-5323 • Email: [mail@TheMLA.com](mailto:mail@TheMLA.com)**

# Kansas Sunflower Shootout XXI – High Plains Enjoyment While Getting a Break From the Grind

It was gratifying to see the show of support from the sponsors (listed at the end of this article) in economic times that one could say are not particularly robust. The turnout was at about the same level as in the past, which indicates dealers and sponsors still want to support this event and many feel they need this event to “get away from it all” if only for one day.

As fate would have it, the day of the shootout was the day the last news bulletin was mailed to the membership. So while the news may not be current, it is still relevant as the



**1st place winners of the annual Sunflower Shootout shown left to right: Roy Hoffman, Home Lumber & Supply; Bill Ray, Mid-Am Building Supply; Frank Stecklein, Heartland Building - Hays; and Carl Fulkerson, Owens-Corning.**

legacy of this gathering is established to the point that it is news no matter when it is reported.

Once again Pluswood, Newton donated a driver for the winner of the Neal Denno Memorial Driving contest. Andy Wilmes from Meade Lumber Liberal was this year’s winner. It cannot be overstated the generosity of Pluswood to provide such a wonderful prize for this event.



**The ladies everyone is glad to see – the “suds squad!” They provide the refreshments so deeply appreciated at this annual outing. Shown left to right are: Susan Mueller, Herington; Joleen Jantz, McPherson; and Rachel Cleaver, Chanute.**

The weather (as it has been most of the summer) was superb and the “glad to see you again” and “how are yous” dominated the conversations before the tee off.

After an awards ceremony and a luncheon, everyone went back to their homes ready to take on another day in the life of their business.

But for this day, good times, good friends and more memo-

ries are recorded in the minds of those who were there. For one day anyway, it was a time to enjoy, relax and forget about the daily grind. In that regard, it was mission accomplished.

## Thank You to 2009 Sunflower Shootout XXI Sponsors

### Pinnacle Sponsors

Federated Insurance  
Berry Material Handling  
Cargotec USA/Hiab, Inc.  
Mid-Am Building Supply  
Roberts & Dybdahl  
TAMKO Building Products  
Westfall GMC – Hole-in-One Sponsor



### Championship Sponsors

Blish-Mize  
Do it Best Corporation  
Hardman Wholesale  
Monarch Cement Company  
Pluswood Distributors of Kansas  
Tennison Brothers, Inc.  
Timber Products, Inc.

### Clubhouse Sponsors

Boise Cascade  
Cedar Creek Wholesale  
Kan-Am  
Owens Corning  
Quaker Window Products

## Federated Insurance Co. Endorsement

Your Mid-America Lumbermens Association endorses Federated Insurance Co. for members' property and liability insurance needs, workers' compensation and health insurance, as well as Federated's life products.

Recently, I attended the biannual meeting of the associations that endorse Federated. The meeting was held at Federated's headquarters in Owatonna, Minn.

Given that your Association is dedicated to assisting members in making the best decisions possible when it comes to all aspects of their business operations, here are some key points we would like to share:

In these difficult and uncertain economic times, it has never been more critical that you do business with an insurance company that is financially sound and that protects policyholder surplus. Federated's combined ratio is one the lowest in the insurance industry and they continue to grow policyholder surplus – even in these turbulent times.

Before you make a decision about which insurance company to do business with, I encourage you to check out the company's A.M. Best rating, their combined ratio for 2008 and 2009 year-to-date, as well as what's happened to their policyholder surplus. You may be surprised by what you find about the other insurance companies that are active in the building material market.

Federated's Client Contact Center is a state-of-the-art, customer service/toll-free telephone hub that is designed to assist Federated insureds with quick answers and responses to any issue that a business might encounter regarding coverage, needed forms, etc. No other insurance company offers this level of service and support to their insured clients.

Loss control and risk management services offered by Federated are unmatched in our industry. Other insurance companies talk about quality risk management tools and loss control – but for the most part, that's all it is – talk. Federated's loss control specialists will design a safety/loss control program for your business and employees and will work with you and for you, as you request.

For some lumber and building material dealers, insurance is still seen as a commodity – the decision to buy and do business with a particular insurance company is based solely on price. For other dealers – who are making their business decisions based on growing their net worth and the value of their dealership(s) as well as making sure their investment is protected – the decision to purchase business insurance from one company rather than another has become a decision about investing with a company that will become a trusted business partner, much like the decision about whom to use

as your company's legal counsel or corporate accountant.

Federated Insurance Co. was founded by dealers, continues to serve lumber dealers and is proud that lumber dealers are one of their key client segments. If you would like to feel more confident about your business insurance relationship, please consider Federated. If you are currently a Federated customer – thanks! Your Association believes you're making a sound business decision.

Please contact me if you want further details on Federated's ratings, policyholder surplus, or other information, as well as statistics for other insurance companies attempting to do business with lumber and building material dealers.

Sincerely,

Jeff Flora, Executive Vice President

## Faulty Appraisals Adding to List of Housing Woes

So now the appraisers are piling on and adding more pain in an already weakened housing market. The biggest problems occurring in the market place are comparables of new single-family homes that are too often based on foreclosures and distressed sales. In many cases the appraisal amount is less than the costs of building a new home. Help may be on the way as Freddie Mac issued a guide bulletin on July 10 publicly stating it does not require appraisers to use Real Estate Owned (REO), foreclosures or short sales in selecting comparable sales to provide an accurate opinion on home values based on market data. The bulletin also stipulated that appraisers must certify that comparable sales chosen are those most similar to the subject property.

The impact on falling appraised values for land and subdivisions under development have led some financial institutions to stop lending to developers and builders and, in some cases, demand additional equity. If the spigot for housing production loans is cut off, the housing recovery is put off just that much longer. There is a push for clear concise regulatory guidance from housing and federal financial regulators that will allow appraisers to develop realistic valuations based on sales that are what they are supposed to be: Truly comparable. This is certainly an issue that bears watching and is not catching a lot of headlines. As events move forward, we will keep you updated.

# *MLA Fall Fling*

*November 5-6, 2009*

*Hampton Inn & Suites Country Club Plaza  
Kansas City, Mo.*

*The “Fall Fling” is the Annual meeting of MLA members. Thanks to members’ enthusiastic response, we are continuing this outstanding event and it keeps getting better. Both dealers and associate members appreciate the opportunity to mingle with one another and to exchange ideas. Again this year, we’ll have a casual yet highly informative and educational event that will be well worth your time. Please plan to participate in this exciting event.*

## **THURSDAY, NOVEMBER 5**

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**6:30 p.m.** – Dine-around – Associate members will host small groups of retail members at local hot spots. Experience the best of Kansas City cuisine!

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**7:30 a.m.** – ***Breakfast and Annual Meeting*** – This is your opportunity to meet leaders from the National Association, hear an update of MLA activities, install and recognize the new MLA Board of Directors, and hear about special association programs.

**8:30 a.m.** – ***“Make Your Spot Shine” – Phil Mitchell***  
***(See next page for details)***

**Noon** – **Lunch sponsored by Federated Insurance.**

**1:30 p.m.** – **Adjourn**

*But ... you can stay to enjoy beautiful Kansas City. Start your Christmas shopping, play golf (weather permitting) and enjoy the last of the fall foliage. Make it a great get-away for you and your family (or leave the kids at home)!*



## “Make Your Spot Shine”

You’ve invested tons of time and money in your business. You’re extremely proud of it, as well you should be. But here is the awful truth: In the retail world in which you operate, your business is simply a spot – one of many choices available to your current and potential customers. Get ready to participate in a seminar that will help you learn how to “MAKE YOUR SPOT SHINE.”

Differentiation is a word that is bantered about in the retail industry, but here’s the scoop: ***Differentiation is more than just a “hot phrase.”*** In fact, the way you differentiate your business and make it relevant to your customers will determine, in large part, how successful your business will be.

Historically the problem has been that casual thinking leads one to believe that there is almost a limitless number of ways you can try to separate your business from the crowd. That thought process is wrong!

In his presentation titled “MAKE YOUR SPOT SHINE,” Phil Mitchell will share with you the secret of the “6 Ps,” which are key elements that differentiate a store and increase its appeal to current and potential customers. Once you clearly understand the 6-P thought process, it becomes much easier to focus on the elements of customer interface. In fact, grasp the 6 Ps and you should be immediately able to develop real strategies for increasing your business.

“MAKE YOUR SPOT SHINE” is a fun, fast-moving presentation that will include group participation so come prepared to share and learn!



### ***About Phil Mitchell...***

Phil Mitchell, author of *Discovery-Based Retail*, and Gary Petz are co-owners of the company that bears the same name as the book. Having spent nearly 40 years in retail and wholesale operations, Phil developed a strong retail background by starting his career learning fundamental operational techniques by completing management training with TG&Y.

He moved from variety store management to counter sales and, later, management of a lumber yard. That experience was followed by a 23-year career in hardware distribution, which led once again to management and culminated in a vice-presidency with that company.

# MLA Fall Fling

November 5-6, 2009

Hampton Inn & Suites Country Club Plaza, Kansas City, Mo.

## Registration Form

Company \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Email address \_\_\_\_\_

**YES! Sponsorship opportunities are available – Call Olivia at 800-747-6529.**

1<sup>st</sup> Registrant's name \_\_\_\_\_

2<sup>nd</sup> Registrant's name \_\_\_\_\_

***Please indicate which events you plan to attend:***

	1 <sup>st</sup> registrant	2 <sup>nd</sup> registrant
Board meeting .....	<input type="checkbox"/>	<input type="checkbox"/>
Reception .....	<input type="checkbox"/>	<input type="checkbox"/>
Dine-around .....	<input type="checkbox"/>	<input type="checkbox"/>
Breakfast/meeting.....	<input type="checkbox"/>	<input type="checkbox"/>
Seminar .....	<input type="checkbox"/>	<input type="checkbox"/>
Lunch .....	<input type="checkbox"/>	<input type="checkbox"/>

***Please complete form and return by Friday, October 16, to:***

**MLA, PO Box 419264, Kansas City, MO 64141-6264**

**OR Fax to: 816-561-1249**

## Registration Information

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**Cost: \$225 per person but MEMBERS ATTEND FREE OF CHARGE.**

## Hotel

Our headquarters hotel is the Hampton Inn & Suites Country Club Plaza – Kansas City. We were able to negotiate a fantastic rate of \$119 per night, single or double occupancy. Reservations may be made by calling the hotel at **1-816-448-4600**.

Guests must call before the **October 14** cut-off date and request the “Mid-America Lumbermens Association rate.” On the cut-off date, rates will return to their regular level.

This is your chance to join colleagues and friends in a fun atmosphere for a quick get-away. This is a special event for members to have an informative and entertaining time with industry friends. We hope to see you there!

## Golf

Due to the timing of this event, we have not organized a golf event. If the weather looks favorable, you are welcome to arrange your own tee times in advance. There are many top-rated golf courses in Kansas City, and we'd be happy to help you arrange an outing. Just call Olivia at 800-747-6529.



## Letter to MLA Members

July 16, 2009

Dear MLA Members,

As you have undoubtedly heard in the recent news, General Motors has been going through some unprecedented changes. We here at Westfall GMC Truck want to keep you up to date on the current situation with both GM and our dealership.

Last month we received a letter informing us of our status with the "New GM." Fortunately, we received a letter that began, "On behalf of the entire GM team, as GM embarks on an exciting new future, I am extremely pleased that Westfall GMC Truck, Inc. has been identified by GM as one of its key dealers. . ." All 182 of our employees realize how fortunate we are to be a part of the future of General Motors. Last week GM emerged from a very short bankruptcy. The new entity, named General Motors Company, has acquired the strongest operations from the former GM, and will operate with a more competitive cost structure.

GM has also informed us, with the reduction in dealerships, those of us who remain will be challenged to expand our markets and step up our efforts. At Westfall GMC we are equipped to take on this challenge and move forward into the future. Now that GM has emerged from bankruptcy, we are conducting business as usual. That means GM is still offering great incentives on their full line of vehicles, our parts availability remains unchanged, and we are honoring all factory warranties.

In June, GM also announced that they will phase out their medium duty GMC TopKick, Chevrolet Kodiak and T-series trucks as a further part of their restructuring. Warranties on these medium-duty trucks will remain unaffected and we will still be providing GM parts as well as warranty & non-warranty service for our customers. We also have a good selection of TopKicks in stock, available at close-out pricing for immediate delivery.

In addition to our GMC Light-Duty and Medium-Duty trucks, Westfall is also an authorized distributor of the following products: Isuzu tilt cab medium duty, Freightliner Business Class, UD tilt cab medium duty, Hino conventional medium duty and Volvo and Mack heavy duty trucks and tractors.

Lastly, we want to thank you as a loyal customer of Westfall GMC Truck for your business. We have enjoyed serving our customers for over 58 years and look forward to working with you in the decades to come.

**Larry Lewis**  
**MLA Fleet Sales Coordinator**

The General Assembly determined as a matter of policy that owners and developers of commercial real estate are generally knowledgeable and sophisticated in construction law and therefore do not require the same level of notice. In addition, the General Assembly recognized that supplying the notice specified for residential contracts imposes a substantial burden on material suppliers; thus, the notice requirement mandated for residential construction only applies to the construction of residential real estate. There are, of course, provisions designed to create a mechanic's lien on commercial real estate. That discussion is reserved for another memorandum, if necessary.

### Service of Notice

The Arkansas General Assembly also clarified how notice must be given. Notice must be given to the owner of the residential real estate, the owner's authorized agent, or the owner's registered agent. In addition, the notice must be served by:

- a) any officer authorized by law to serve process in civil action;
- b) any person who would be a competent witness;
- c) any form of mail addressed to the person to be served with return receipt requested and delivery restricted to the addressee or the agent of the addressee; or
- d) any means that provides written third party verification of delivery at any place where the owner of the building or improvement maintains an office, conducts business, or resides.

### Conclusion

A mechanics' lien is a powerful tool to ensure payment for labor and materials. However, the statutes must be followed closely to create a mechanics' lien. Accordingly, becoming familiar with these and the other changes to the mechanics' lien laws would be in members' best interest.

*This information was provided by Timothy J. Davis, of the law firm of Seigfreid, Bingham, Levy, Selzer & Gee (SBLSG). SBLSG regularly provides legal advice and information to Mid-America Lumbermen Association and our members. Notice to the "Owner" may be given to the owner of the residential real estate, the owner's authorized agent, or the owner's registered agent. For ease of reference in this memorandum, "Owner" means each of those parties entitled to receive the Notice.*

## Will Green Building Products Really Do What They Are Supposed To Do? – Part 1

This will be the first of a three-part series of articles regarding green building and the products used in the green building construction process. It might not be a terrible idea to store this series of articles somewhere for future use if you don't have a need for it at this time. A recent McGraw-Hill study found that the market for green homes is expected to rise from \$2 billion to between \$19 and \$30 billion over the next five years starting in 2009. So if you're not using these products now, you will be exposed to more of these products in the future. Is green building a fad? Who knows? But if it isn't you will be glad you held onto this information, or for some of you, it is information you can use right now.

So, let's start with the basics. Just what is a "green" product? In the most general of senses, it is a product that seeks to limit its negative affect on the environment and, if it can be done, make a positive effect on the environment. There are generally six components to green products. They don't apply to every product or application, but each is considered part of the overall green building concept. They are:

- Energy efficient
- Conservation of water
- Durable
- Recycled content
- Renewable/sustainable content
- Recyclable, minimizes waste

A smattering of such "green" products would include high-efficiency HVAC systems, zero-VOC paint, cork flooring and low-flow toilets, just to name a few. Residential home builders use these products along with engineered wood products/composite decking as well as energy-efficient appliances and advanced technologies for walls, roofs, floors, windows and doors.

### Products You Can Stock

In time, you probably will stock these products to meet the coming demand. Before you take the plunge and start stocking some of these products, an honest thoughtful approach for purchasing is in order. Here are several factors to consider before inventorying these products. Remember, many of these are new to the market without a great deal of history behind them.

- Will the product perform?
- What is the product supposed to do?
- Is the product truly green?

- Can large quantities of the materials be delivered on a timely basis to meet construction demands?
- How does the product compare to existing products?
- Does it meet recognized industry performance standards?
- Does it meet applicable building code requirements? (Where necessary.)
- How long will the product last?
- How difficult is the product to repair?
- By all means ask for test data. To include evidence showing product will last for designated time period and evidence that product possesses advertised performance characteristics.
- Ask for third party certification.
- Are there installation issues to be considered?
- Are there any maintenance requirements and are they necessary to assure long-term performance?
- How will the product work in a wet environment (or if it gets wet)?
- What is the products performance history? Ask the manufacturer about claims history - ask to see other products where the product has been used - ask to speak to other purchasers of the product(s).
- Consider doing your own product testing under the conditions in which you will use the product.
- And finally, what effect will the green product have on the home as a system?

Only after considering all of these factors and satisfaction with the performance criteria should you then turn your attention to an assessment of a product's green attributes.

*Much of the information provided for these articles was provided by Simpson Gumpertz & Heger an engineering firm located in Boston. Wood, Smith, Henning & Berman LLP attorneys, Los Angeles and K & L Gates, attorneys, Boston also provided some of the content. None of this information is copyrighted. Reproduce as you see fit.*

*Part 2 of this series will be in the fall news bulletin where we will talk more about the environmental impact of these products.*

## Health Care Debate

Congress left for its month-long August recess after making slow progress on health care reform legislation.

House Democrats drafted a health care bill which had to be approved by three committees. The Education & Labor and Energy & Commerce Committees addressed health policy issues while the Ways & Means Committee confronted financial issues. All three approved versions of the bill, albeit different, leaving the Rules Committee to come up with a single version for September floor debate.

Two Senate committees worked independently. The Health, Education, Labor & Pensions (HELP) Committee completed a bill with health policy provisions, but members of the Finance Committee were working through the August recess to finish a bill that includes financing.

The bills have many common elements. They would require individuals to have health insurance and impose fines if they do not. They would require employers to offer insurance and pay for a substantial portion of it or pay into a government fund. There are exceptions for small businesses – companies with less than \$500,000 in annual payroll in a House bill and with 25 or fewer employees in the HELP bill. There are tax credits for small businesses and government subsidies for lower-income individuals – contributing significantly to the \$1 trillion estimated cost.

The bills provide for a government-run plan – or public option – that would be part of a national insurance exchange. Individuals and small businesses would be allowed to compare options and acquire insurance from the exchange. The Senate Finance Committee was considering an idea to set up a network of non-profit insurance cooperatives for individuals and small businesses instead of a government-run program.

The Obama administration and Congressional Democrats continued to say most of the funding would come from wringing costs out of the existing health care system. But they were looking at other sources of income as well.

The House Ways & Means Committee approved a surtax on household incomes of \$350,000 or more. That met with objections from conservative Blue Dog Democrats and there was talk of raising the income threshold to \$1 million. This concerns the small business community because it could affect owners whose business income is taxed as personal income. The Senate Finance Committee had been considering capping the tax exclusion for employer-provided health benefits. That, too, drew objections, so committee members turned to a proposal to impose a fee on insurance policies carrying premiums of more than \$25,000 annually.

Source: North American Retail Hardware Association

## International Green Construction Code (IGCC) Initiative Launched By International Code Council (ICC)

In partnership with the American Institute of Architects (AIA) and ASTM international as cooperating sponsors, the ICC launched an initiative on June 29 to develop a model code focused on new and existing commercial buildings. (Note: Commercial structures only.) Commercial comes up big in green building as they consume approximately 40 percent of the energy used and produce the same amount of the nation's carbon emissions. Simply stated, the time has come to create codes that specifically focus on green buildings and high performance. We noted in a prior newsletter that the Sustainable Building Technology Committee (SBTC) was formed and will hold public meetings on the initial draft, followed by a final draft that will be made available in 2010 as a resource document before it moves through the development hearing and final action hearing stages that are common at the ICC annual review of building codes.

The final goal is to use this code as a tool to achieve carbon neutrality by the year 2030. We advise you of this because one has to think that if these steps are being made in commercial, at some point residential codification of the code will be implemented for green building. The process will be much the same as it is for commercial. An initiative; a draft; a final product; public meetings; comment period and then final action on the finished product. It is all on the horizon; we will let you know when, where and how as well as the impact on the industry.

## Construction News...

- Residential construction rose to \$246.1 billion in June, up 0.5 percent from the revised May estimate of \$244.7 billion, according to the Commerce Department. Nonresidential construction was at a seasonally adjusted rate of \$397.9 billion in June, down 0.5 percent from the revised May estimate of \$400 billion. For the first time in four months, federal construction spending rose 1.9 percent.

- More and more homeowners are opting to remodel in phases, depending on their schedules, budgets and lifestyles, according to a *Consumer Reports* study. Thirty-six percent of homeowners said they plan to complete a series of remodeling projects.

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[www.sfccmo.edu/buildingmaterials](http://www.sfccmo.edu/buildingmaterials)

## FTC Delays Enforcement of “Red Flags” Rules Until November 1

Recently, the Federal Trade Commission (FTC) announced that it would further delay enforcement of the “Red Flags” Rules by another three months, from August 1 to November 1, 2009. The commission also announced that it would redouble its efforts to educate small businesses and other entities about complying with the Rules and work to ease compliance by offering additional resources and guidance to clarify whether businesses are covered and what they must do to comply.

“Although many covered entities have already developed and implemented appropriate, risk-based programs, some—particularly small businesses and entities with a low risk of identity theft—remain uncertain about their obligations,” said the FTC in a release. “The additional compliance guidance that the Commission will make available shortly is designed to help them.”

Additionally, the FTC released a set of FAQs for the guidelines that address how the agency intends to enforce the Rules, noting that “Commission staff would be unlikely to recommend bringing a law enforcement action if entities know their customers or clients individually, or if they perform services in or around their customers’ homes, or if they operate in sectors where identity theft is rare and they have not themselves been the target of identity theft.” The full set of FAQs can be found here.

There is also information on our web site at: <http://www.themla.com/FACTA-Compliance.htm>

If you have any questions, please don’t hesitate to contact our office at 800-747-6529.

## ABS President to Retire – New President Named

The Board of Directors of Allied Building Stores, Inc., a Monroe, La. based lumber and building materials cooperative, has announced the retirement of long-time President Laddie Woods effective Aug. 31, 2009. Mr. Woods began at Allied Building Stores as office manager in June 1978. He was named president within a year and has served as president the past 30 years. He will remain at Allied Building Stores in the role of chief financial officer upon his retirement as president.

David Stiles, a 40 year veteran of the building material industry will succeed Mr. Woods as president, effective Sept. 1, 2009.

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