Breaking Ground

THE MAGAZINE OF THE MASTER BUILDERS' ASSOCIATION OF WESTERN PENNSYLVANIA

JULY/AUGUST 2022

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PUBLISHER'S NOTE

The cranky publisher is back. I'm writing to suggest that we stop asking people who live in a neighborhood for permission to build what is already permitted to be built.

In early June I had the privilege of moderating a seminar on resilient cities that was convened by the Urban Land Institute (ULI). The keynote speaker was Anna Zetkulic from the Rocky Mountain Institute, who spoke about climate-adjusted development. The two-hour session was extremely informative, thought-provoking, and a bit confusing. The conversations highlighted the conflict in ideas that exists among advocates for the best urban living solutions.

The program brought into focus the difficulty of simultaneously advocating for climate, housing affordability, sustainability, equitable opportunities, and outcomes. The discussions revealed how often advocates for one of these positive changes could end up on the other side of another.

One of the panelists was Brandon Mendoza, the executive director of NAIOP. He spoke passionately about how urban municipal policy was ignoring the $150,000-to-$400,000 homeowner who makes up the largest share of the homeownership pie. Brandon pointed out that urban policy makers had essentially given up this piece of the market to the far suburbs. He acknowledged that no one had created the situation intentionally, but that the practical result of policies in the city and the "not in my backyard" attitude of residents made the outcome just as certain as if it was intentional. Brandon's solution is that we have more "yes in my backyard."

Another focus of the discussion was on what could be done to reduce individual vehicle travel impact in large cities. This dovetailed nicely into discussions of transit-oriented development and conversion of obsolete office buildings into residential. Those discussions brought to light the tensions in the various positions of urban living advocates. For example, converting old office buildings to apartments Downtown requires a level of investment that would necessitate higher rents. That exacerbates the affordable housing problem. Likewise, expansion of mass transit beyond its existing footprint could an incentive to develop more affordable housing alternatives further from the city center, which would invariably lead to more driving rather than less.

Pretty much everyone on the panel was a like-minded advocate for more resilient, sustainable, affordable cities. You could be forgiven for assuming that they were of like minds on the issues associated with improving cities. You would be wrong in that assumption. It would be easy to envision how these like-minded people could be at odds in a vocal public meeting.

There is no universal prescription for developing a resilient, sustainable, equitable, affordable city. That would be true if you started from scratch, but it's especially true when you are trying to do so in an old industrial city like Pittsburgh. That does not mean you don't try to make policies that encourage lofty goals. It does mean that you shouldn't meet all those goals with every project that is proposed. And what the ULI seminar drove home to me was that you shouldn't allow every voice in the room to influence the outcome of every project.

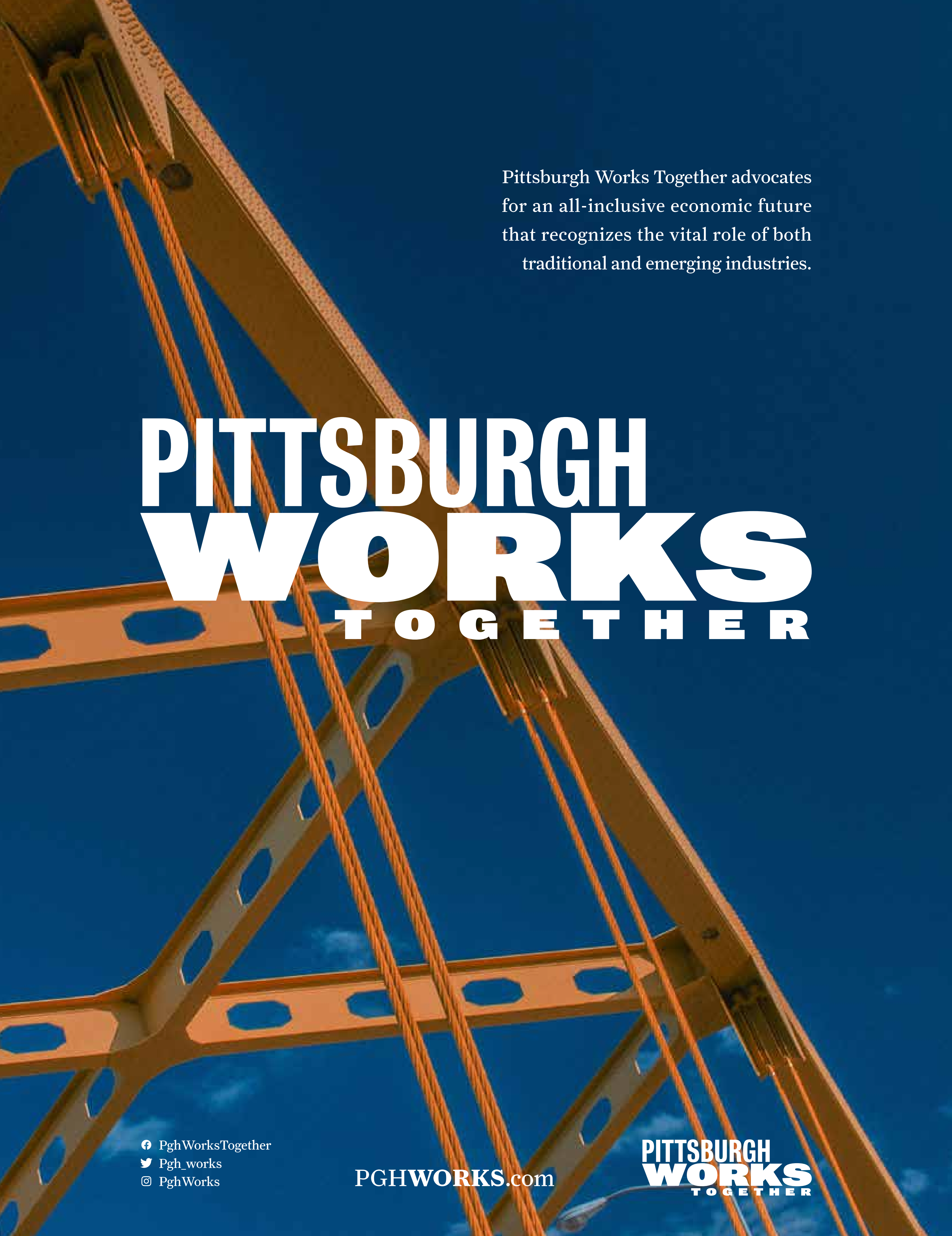
Several recent events illustrate this point. Oakland Crossings has been in the news a lot during the past few months, mostly to highlight the pettier aspects of the neighborhood politics. What was given little or no coverage was the fact that the development was pretty much exactly the prescription that urban planners would have for a place like Oakland. It has density of housing that is aimed at being affordable for the thousands of workers who might walk to Pitt or UPMC facilities a few blocks away. There is a grocery store planned for a community without one. There were concerns about building heights and the loss of single-family homes, which were understandable on some level, but the developer was not taking the properties by eminent domain. They were sold to them by the individuals who owned the properties. But by giving everyone a voice, the city's planning and zoning process devolved into a battle that was not about the best use of the property for the community. It is the community's good fortune that the compromise reached did not derail the project.

In Lawrenceville, another community squabble has been less public, but is equally unsettling. Last year Amazon purchased the former Sears warehouse on 51st Street for use as a last mile distribution center. The neighborhood has been opposing the acquisition because it conflicts with its vision for what should be there. Let that marinate. A company looking for a warehouse near the center of Pittsburgh bought a warehouse near the center of Pittsburgh – in a warehouse district – and finds it must ask the powers that be for permission to use it.

I understand that the residents of a municipality have a right to weigh in on what is built in their community. But that right is not unlimited. There are also public meetings when comprehensive plans are presented. That's when these kinds of issues are meant to be debated and revised. That's when the question of what can be built where is supposed to be debated.

More often than not, when there is public pushback against a project, the opponents take pains to protest that it is not a NIMBY reaction. The truth, of course, is that the reaction is by definition NIMBY; and the more often you ask the public for its opinion on development, the more likely you are to hear no when the answer should be yes.

Jeff Burd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REGIONAL MARKET UPDATE

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At the midway point of 2022, Pittsburgh's economic fortunes continue to improve in spite of the drag of challenging demographics. Likewise, the construction market has been more robust than expected in the face of persistently high price escalation. The growing pessimism about the economy being expressed by consumers and businesses had yet to dent construction activity through five months, with the exception of the new home construction market.

Employers in metro Pittsburgh added roughly 19,000 nonfarm jobs in April. The biggest gains were in leisure and hospitality (7,500 jobs) and construction (5,400 jobs). According to data from the PA's Center for Workforce Information and Analysis, there were 1.42 million nonfarm jobs in the seven-county Pittsburgh market in April, 33,000 more than a year ago. Unemployment fell in April in Pittsburgh to 4.8 percent, a decline of 20 basis points from March. There were 53,000 people in the ranks of the unemployed in April, just 3,600 more than the pre-pandemic level. There were 1.17 million people in the labor force in April, just 3,000 fewer than a year ago, but 38,000 less than in April 2019.

The decline in workforce has put Pittsburgh behind virtually all regions in the U.S. for recovery to pre-pandemic employment levels. The irresistible demographic trends, most notably an unusually high share of retirement-age workers, leaves Western PA with roughly 50,000 fewer jobs than in February 2020. Like the situation in the rest of the U.S., however, employment demand in Pittsburgh is stronger than two years earlier. According to the Allegheny Conference on Community Development (ACCD), there are roughly 50 percent more openings in metro Pittsburgh in May 2022 than prior to the pandemic.

Pittsburgh Market (Thru May 31)	2021	2022	Variance
Total Nonresidential/Commercial $	$1.45B	$1.52B	4.8%
Total Residential $	$692.2M	$594.8M	-14.0%
Total Housing Starts (thru May 31)	2,388	1,841	-22.9%
Healthcare	$97.4M	$152.6M	159.0%
Higher Ed	$117.3M	$131.9M	12.4%
Industrial	$225.7M	$358.1M	58.7%
K-12	$68.3M	$50.2M	-26.5%
Multi-family	$226.0M	$365.8M	61.8%
Office	$237.5M	$79.6M	-66.5%
Retail	$88.3M	$65.7M	-25.6%

Source: Tall Timber Group, Pittsburgh Homebuilding Report.

ACCD noted that data from EMSI/Burning Glass showed 42,436 unique job openings in May 2022, which was 14,435 more than pre-pandemic. For comparison's sake, there were 25,918 openings in May 2019, and 31,627 openings in May 2018.

In mid-May, a report by the Pennsylvania State Data Center – a Penn State University project – showed how the persistent long-term demographic trends were accelerated by the pandemic. A deeper look at the report also reveals how the emerging economic drivers are acting as an offset to those trends.

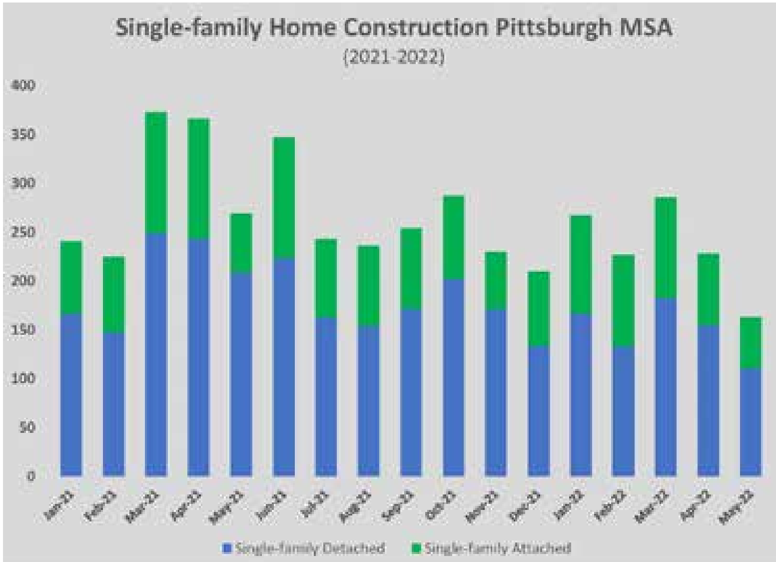
According to that data, which reflects a March report from the Census Bureau that showed the Pittsburgh metropolitan area lost 13,755 residents, every county in the Pittsburgh metro region experienced natural decline from the time of the July 2020 census estimate through the July 2021 updated estimates. Allegheny County had 3,862 more deaths than births. COVID-19 accelerated the natural decline because the number of deaths was significantly higher and births declined significantly.

The pandemic had another population-related impact. The financial safety net created to prevent the pandemic from causing widespread economic destruction worked, but it also allowed an even greater number of Baby Boomers to retire than was expected. Given the historic trend of retirement relocation from Pittsburgh to warmer climates, the accelerated rate of Boomer retirements likely accelerated the population loss of retirees.

Population declined by nearly one percent in the City of Pittsburgh, but the rate of its decline was only one-tenth of the population drop in the City of Philadelphia. Moreover, the municipalities that experience net population growth in the metropolitan area were among the fastest growing in the commonwealth. Cranberry Township experienced the third-highest number of new residents in PA. Its neighbors to the north, Jackson Township and Lancaster Township, had the third and fourth highest rates of population growth in PA.

Construction data through the first five months of 2022 showed that the market in Pittsburgh is closely reflecting the impact of regional demographics and the overall economy.

New home construction, which has been constrained in Pittsburgh by a shortage of buildable lots, was hit by a triple whammy of



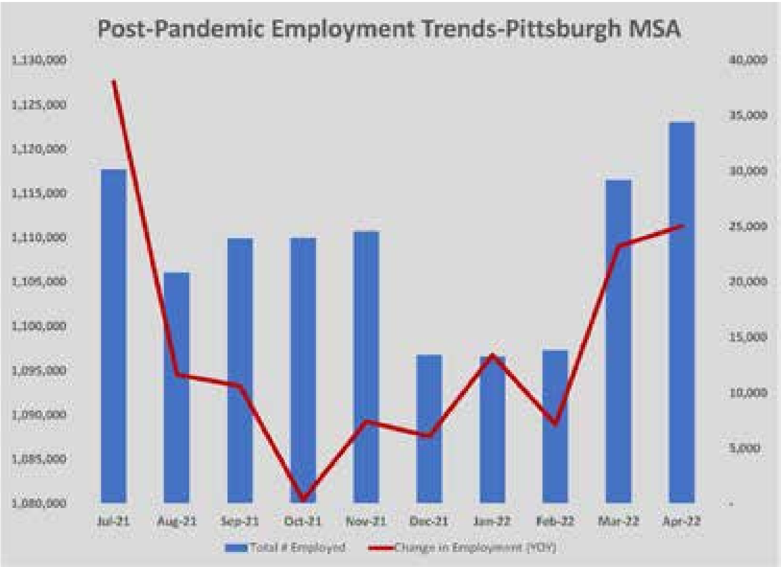
The trend for single-family home starts has been steadily lower as inflation and mortgage rates have risen. Source: Pittsburgh Homebuilding Report.

escalating costs, supply chain delays, and higher mortgage rates. Permits for new construction starts fell by 22.9 percent, to 1,841 units, compared to the first five months of 2021. The construction cost for residential declined by only 14 percent. A drop in new single-family units of more than 600 dwellings accounted for the overall decline.

Nonresidential/commercial activity was slightly higher year-over-year, with $1.52 billion underway through May 31, 2022 versus $1.45 billion in the same period of 2021. Construction volume through May was higher than forecasted, perhaps owing to more owners releasing deferred projects than expected. An analysis of activity shows that construction is occurring in the market sectors where investment is expected. The troubled office and K-12 markets are slowing. The hot healthcare, higher education, industrial, and multi-family markets are getting hotter.

Private institutional construction - focused primarily in Oakland - made up roughly 20 percent of the construction during the first five months. Construction in the healthcare and higher ed segments is at the beginning of a multi-year run of major projects. While activity was $70 million higher in these two sectors during the first five months of 2022, only one of the major projects in the pipeline

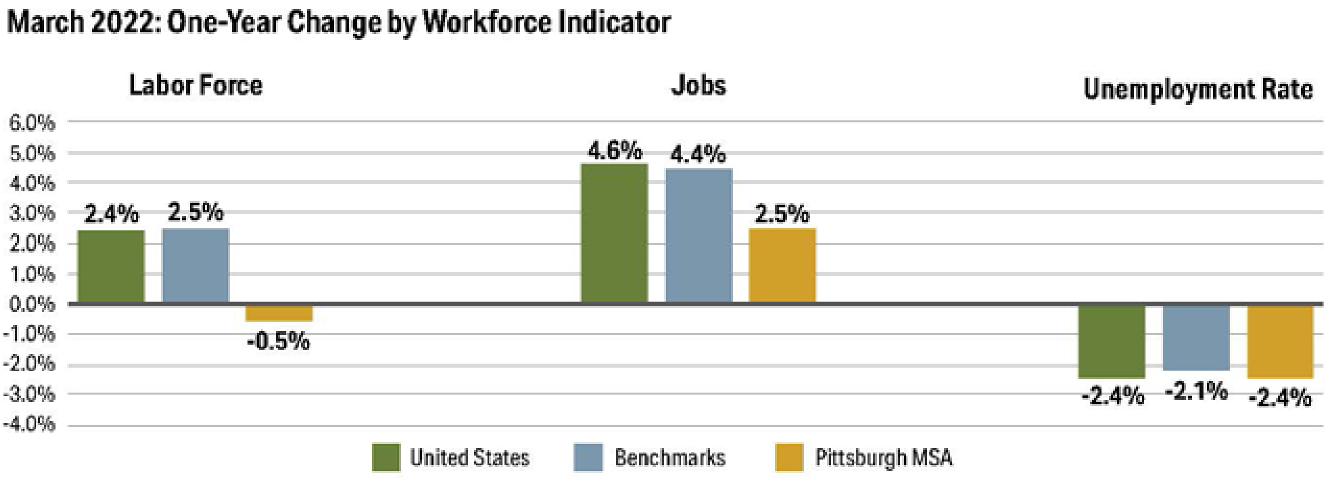
– Duquesne University's College of Osteopathic Medicine – started this year. Most of the $100 million-plus projects in the late planning stages at Pitt and Carnegie Mellon will begin later this year or early 2023. A ground-breaking ceremony was held June 14 for the largest healthcare project in Pittsburgh, the Heart and Transplant Hospital at UPMC Presbyterian, for which early contracts have been awarded to start work later this summer.



The trend in monthly employment gains has been higher since fall 2021. Source: Bureau of Labor Statistics.

The sector with the largest decline in activity was the office sector, although the number of office projects did not decline dramatically. In the third year since COVID-19 sent people to work from home, the office market is seeing more construction related to relocation. The lack of available quality space dampened the appetite for relocation at lease expiration for two decades; however, the current environment is seeing virtually all major lease renewals result in relocation or major tenant improvements in place. Pressure to retain talent is driving a flight to quality, which has helped the absorption of space in new buildings and the upscaling of existing buildings to keep pace with amenities. The current trends make speculative development inordinately difficult, however.

As in the rest of the U.S., industrial and multi-family projects in Pittsburgh are attracting tenants and investors, creating



The decline in workforce participation has been a drag on the recovery from COVID-19 in Pittsburgh.
Source: Southwestern Pennsylvania Quarterly Vitals, Pennsylvania Economy League of Greater Pittsburgh.

increases in new construction of roughly 60 percent in each category.

There were $358.1 million in industrial starts from January through May in metropolitan Pittsburgh, the bulk of which was new construction. The major projects getting underway were the million-square foot warehouse for Amazon in New Stanton, the 300,000 square foot refrigerated warehouse for Frank B. Fuhrer Wholesale in Delmont, and 425,000 square feet in Buildings 2 and 3 at Westport Ridge in Findlay Township.

The potential cloud on the industrial horizon is the announcement by Amazon in its first quarter earnings call that it had overbuilt space during the pandemic. Amazon reported that it would be ceasing acquisition and development while it assessed its real estate portfolio, an undertaking that will have more of an impact on construction in 2023. The announcement sheds a different light on the company's decision to pull out of the Churchill deal earlier this year. It is also likely to give pause to other major retailers and distributors.

Favorable demographics and a tight housing market have supported another surge in apartment construction thus far in 2022. Slightly more 1,000 units have been started during the first five months, with another 1,600 units in the entitlement or permitting pipeline for construction in 2022. The new product should enter a market that will still be short of meeting demand in 2023 and 2024. At mid-year 2022, vacancy remained low enough that rent increases were running well ahead of 2021 rents. According to Apartment List's June 1 report on rent growth, rents in Pittsburgh increased 2.2 percent month-over-month in May, roughly double the national average. Year-over-year rent growth in Pittsburgh is still about half the national rate of growth, with rents 7.7 percent higher in Pittsburgh. Rent growth at the same time in 2021 was only 2.8 percent year-over-year.

Owner-occupied construction, which was one of the strongest segments of the market in 2021, is slowing as uncertainty about the economy grows. A look at the Federal Reserve Bank's Summary of Commentary on Current Economic Conditions – the so-called Beige Books – reveals how quickly business sentiment has declined since winter. The Business Conditions Index of the Fourth District, which covers Western PA, measures the diffusion between business owners who experienced better, worse, or unchanged conditions in the most recent two-month period. The Business Conditions Index peaked in mid-2021 at 59 and was above 40 as recently as January 2022. The reading for June 2022 was nine. Pittsburgh-area business owners were slightly more upbeat with a reading of 18. Business owners are likely to experience volatility in demand while inflation remains high and uncertainty lingers. Such an environment is not conducive to increasing investment, including in facilities.

The outlook for construction in Pittsburgh for the remainder of 2022 is less uncertain than in most of its peer cities, primarily because the regional market is being driven by projects that are more resilient in an inflationary environment. Construction is nonetheless in an uncertain period, regardless of the geographic market. The volume of work started in 2022 will almost certainly be lower than expected, even if the market sees declining cost escalation rates as the year unfolds. BG

NATIONAL MARKET UPDATE

The second reading of the U.S. gross domestic product (GDP) for the first quarter confirmed that the pace of economic growth is slowing more quickly than expected. The 1.5 percent decline in GDP, in tandem with rising rates and persistent inflation, are bringing rapid revisions by economists and financial institutions to forecasts that were made at Christmas. The pace of these revisions, and the wide range of forecasted outcomes, is an indication of how uncertain the prospects for the U.S. economy are for the next two years.

An examination of the GDP numbers reveals more stability than the headline suggests. Part of the decline in quarter one was the reaction to the unusual inventory building during the fourth quarter of 2021. The lean inventory build combined with a surge in net imports in the first quarter to reduce GDP growth by a staggering four percentage points. The rates of growth for consumer spending, business investment, and residential investment were all above the long-term trend. Payroll employment grew by 1.7 million in the first quarter and industrial production grew at a 7.6 percent annualized rate.

It is unlikely, however, that the pace of consumer spending and residential investment will continue for the balance of 2022. Inflation has already begun to erode spending. Higher costs for construction have curtailed home remodeling and additions, and rising home prices are slowing home purchases. In fact, almost all forecasts for GDP growth in 2022 show residential investment as a negative.

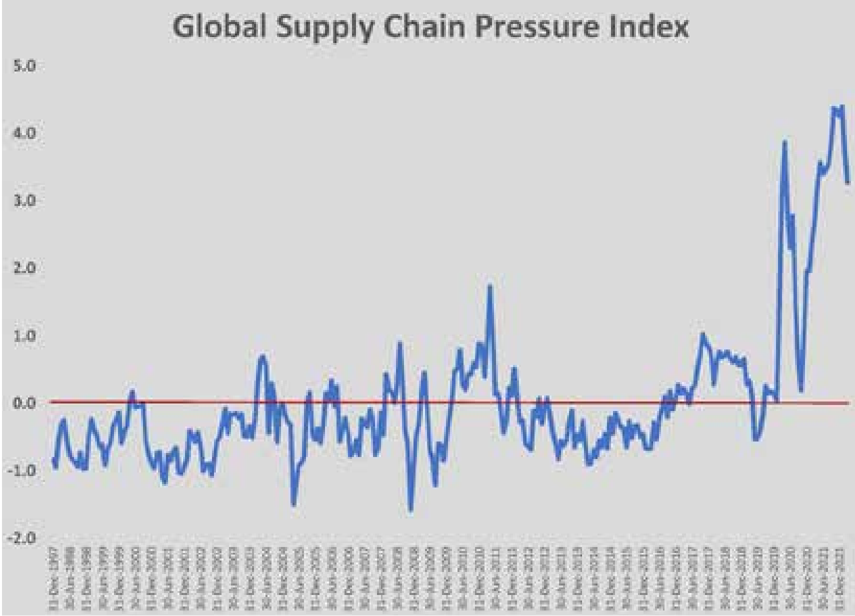
Because of the CARES Act and American Rescue Plan provisions, principally the Paycheck Protection Plan (PPP), businesses continue to be in a strong position. Demand has returned for most industries. The cash boost provided by PPP in 2020 and 2021 is available to be deployed and is expected to drive an increase in business investment of five percent or more in 2022.

For the final three quarters of 2022, the disparity in inventories and import/exports should be less pronounced (although supply chain woes could slow inventory rebuilding throughout the year). At the same time, the waning benefits of accommodative fiscal and monetary policy will cool demand. Expectations for GDP growth in 2022, for which there was consensus of growth above three percent at the beginning of the year, have moderated dramatically. The Blue Chip Economic Indicators consensus forecasts of economists and analysts expect GDP growth to fall to 1.6 percent for the full year.

Much of the difference in opinion about the outlook reflects the broad variance in expectations about interest rates and inflation. Firms like Wells Fargo Securities and Deutsche Bank see the Federal Reserve Bank staying the course on hikes, pushing the Fed Funds rate well above neutral by early 2023. That scenario makes recession likely. Observers that account for the Fed's sensitivity to a soft landing see greater potential for a pause in hikes – as happened in 2016 – that reduces the chance of a recession, or at least one that produces a significant increase in unemployment.

Federal Reserve Bank Chair Jerome Powell was more assertive in his comments following the 75-basis point June rate hike, seeming to want to assure markets that the goal was a 2.5 percent neutral rate. Powell did not eliminate the chance of a 75-basis point hike in future meetings, but his comments left that possibility should inflation continue to be high through the summer. Both short-term and long-term rates eased a bit after Powell's comments, suggesting that investors had begun to price higher rates into their forecasts.

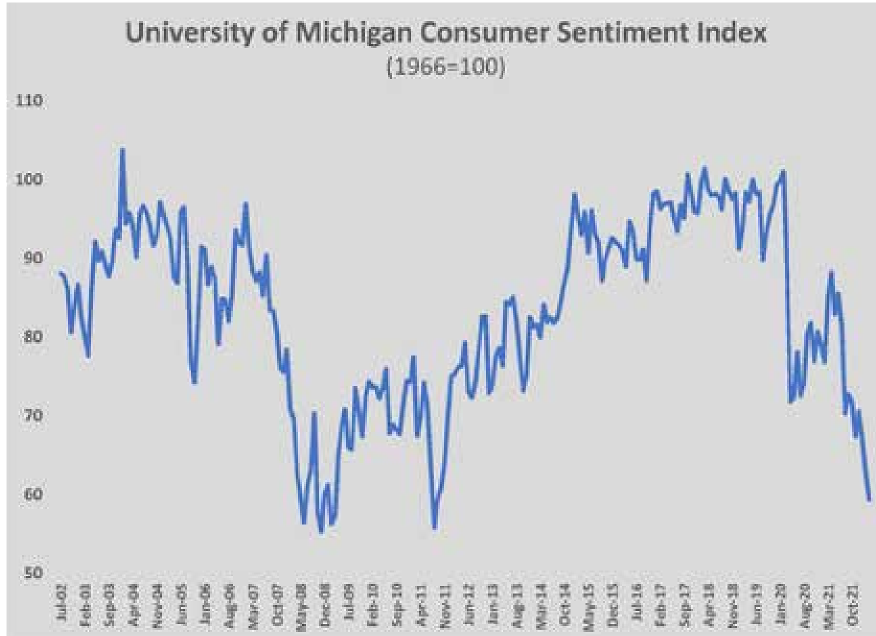
The comments were not upbeat, however, and Powell was also explicit in signaling that inflation was the Fed's highest priority. He noted that "neutral" was a range, not an absolute rate, and he was clear that the central bank would consider pushing into restrictive territory to cool inflation in 2023. The



A measure of supply chain pressures has fallen since January 2022. Source: Federal Reserve Bank of New York.

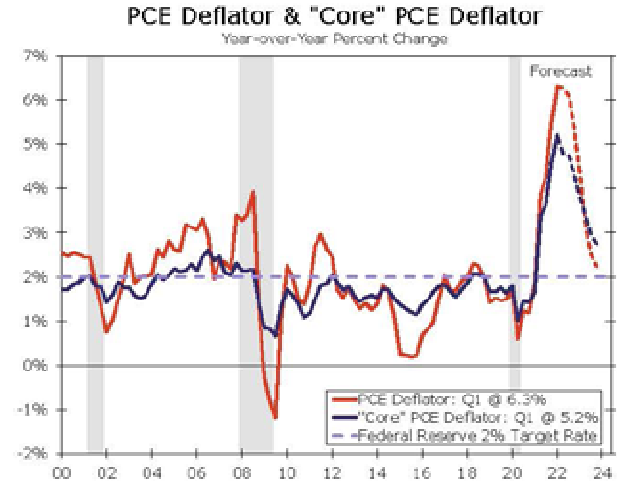
75-basis point hike in June should be followed by 50-to-75 basis point hikes in July and September. That would leave room for 25-basis point hikes in November or December, depending on the conditions.

Aside from the impact on the economy, the Fed's actions are important to the construction industry in several ways. The most obvious is in the increased cost of borrowing. Lenders' appetite will decrease, and spreads will go up. For commercial real estate developers, that adds further pressure to pro forma at a time when construction costs are escalating rapidly. It is likely that a significant share of commercial projects will be deferred in the coming year. The April Senior Loan Officer Opinion Survey revealed little change in appetite, demand, or lending conditions among either small or large lenders. Anecdotal evidence suggests that will change significantly in June, with conditions tightening.



Consumer sentiment has been dragged down by higher inflation and continued shortages to levels unseen since the Great Recession. Source. University of Michigan.

Source: U.S. Department of Commerce and Wells Fargo Economics



Source: U.S. Department of Commerce and Wells Fargo Economics

Lenders are reacting to the volatility and uncertainty, rather than to a material change in the economy. Prior to Christmas 2021, few observers expected the Fed to start hiking rates at all in 2022. The 10-year Treasury rate was 1.5 percent. Six months later, the 10-year has topped the three percent level and the FOMC could well push the Fed Funds rate to three percent this year. When conditions change that much, that quickly (and they rarely do), lenders stop answering their phones.

As rates go up there will be increased difficulty for corporations to borrow and to refinance existing debt. That will depress capital spending. And the thinning of the Fed balance sheet will put pressure on long-term rates, as lower demand for bonds – including mortgage-backed securities – drives prices down and interest rates up. That makes it more difficult for long-term borrowers, like public authorities, to finance major capital projects.

The pace of core inflation did flatten in April and May for consumer prices, but the surge in oil and food prices pushed the consumer price index (CPI) to a 40-year high of 8.6 percent year-over-year. Producer prices were 1.8 percentage points higher than the CPI. That represented the third consecutive month of slowing and suggests that the supply chain may be improving.

If, in tandem with the Fed's restrictive actions, the American consumer and business owner begin to trim spending in anticipation of a recession, the central bank's policy shifts will be compounded. It is becoming more likely that inflation will remain high unless there is a pumping of the brakes by both the Fed and the markets. After a few months of the new interest rate environment, there are signs of a reaction similar to braking:

- The University of Michigan Consumer Sentiment Index dipped below 60 in March, a 10-year low. Falling sentiment tends to lead consumer spending, which makes up two-thirds of GDP.
- China's continued "Zero-COVID" policy pinched growth in the world's second largest economy and caused a severe credit contraction in the first quarter, which is expected to push China to ease monetary policy.
- European Union has likely fallen into recession during the second quarter of 2022.
- The Port of Los Angeles reported that the number of ships waiting to anchor in Los Angeles or Long Beach had fallen from more than 100 in January/February to 39 in mid-May.
- The Buying Conditions Index portion of the Michigan consumer sentiment research has fallen below the April 2020 pandemic lows for automobiles, homes, and large household durable goods.
- Two technical measures of supply chain disruption, the Manheim Use Vehicle Index and the Fed's Global Supply Chain Index (GSCPI), both peaked in January 2022 and have been falling since.

Each of these indicators point to a shift from supply to demand as the driver of economic stress. Clearly the GSCPI has room to go before the pressures on the supply chain – higher costs, backlogs, long lead times, and low stocks – ease enough to return to the conditions that prevailed since the late 1990s. Slowing demand, however, should accelerate the easing of supply stresses. If consumer behavior does follow sentiment, demand should fall further than expected by mid-summer. Should that happen, supply chains will normalize more quickly than expected.

Quick response by the markets is likely to bring inflation back in line with long-term expectations earlier than forecasted, but probably at the cost of at least a mild recession. That, in turn, would put pressure on the Fed to halt rate increases and slow reduction of its balance sheet, efforts that are needed to return to more normal monetary policy.

Data from the Census Bureau on employment continued to reflect a tight labor market. The Job Openings and Labor Turnover Survey for May showed 11.4 million openings, nearly double the number of unemployed persons. The most recent Employment

Situation Summary – the monthly jobs report – showed hiring was continuing at an accelerated pace, despite challenges finding workers. Employers added 390,000 jobs in May, pushed mainly by seasonal hiring in leisure and entertainment, professional and business services, government, and warehousing. Construction employment grew by 36,000 workers after no gains in April. The June 1 ADP Payrolls Report, which saw private employers add 128,000 workers in May, is the lone metric suggesting that hiring may be slowing.

Unemployment in May remained at 3.6 percent and the number of unemployed persons was six million, roughly 300,000 more than just prior to the pandemic. The number of long-term unemployed (those out of work for 27 weeks or more) fell slightly to 1.4 million, which was 235,000 more than in February 2020. Both the labor force participation rate and the population-to-workforce ratio remained unchanged in May, with both metrics 1.1 percent lower than in February 2020. Those lower rates have been consistent, suggesting that most of the 1.6 million fewer workers in the labor force are not returning.

Construction spending, not adjusted for inflation, reached an annual rate of $1.74 trillion in April, an increase of 0.2 percent from the March rate and 12.3 percent higher than in April 2021. Private residential construction spending rose 0.9 percent from March and 18.4 percent from April 2021. Private nonresidential construction spending declined 0.2 percent month-to-month but was 10.1 percent higher than in April 2021. Public construction spending was 1.8 percent higher year-over-year.

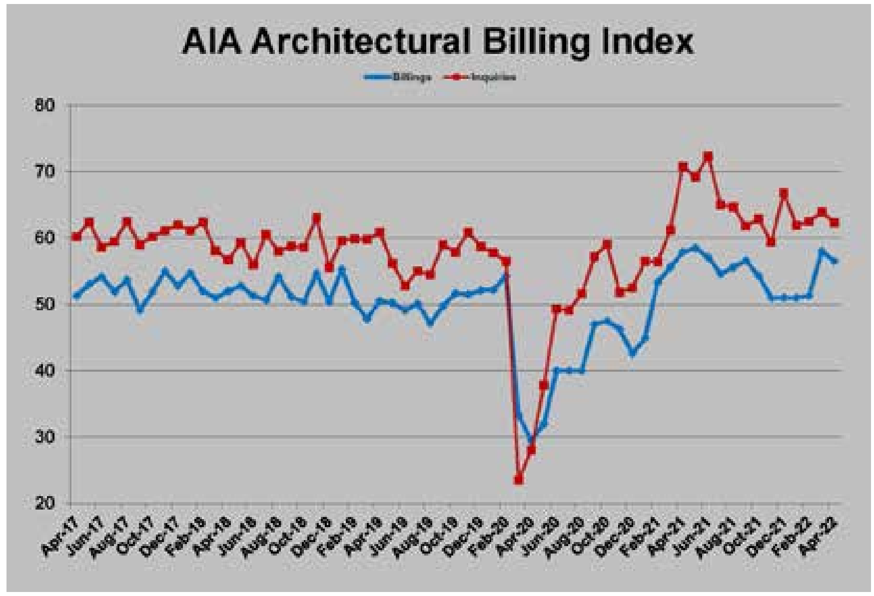
Economists cited the continuing tight labor supply as a constraint on higher construction activity. There were 494,000 construction jobs open in April, a 40 percent increase from April 2021. The number of open positions exceeded the number of new jobs, suggesting that employers could have doubled the number of hires during the month.

Rising borrowing costs were blamed for the sudden steep reversal in housing starts in May. New home construction slumped 14.4 percent in May from April. Permits for new housing units topped 1.8 million in April, following a surprising uptick in starts in March. Single-family starts were 1.05 million, with multi-family starts falling to 498,000 units. Sales of new homes plunged significantly in April, the fourth consecutive month of declines. Declining sales reflect concerns about rising mortgage rates and reflect a further decrease in affordability. The median price of a new home jumped 19.6 percent compared to April 2021.

The drop in new home sales pushed inventories higher, despite the slump in May, with a nine-month supply of new construction available for sale in May. Combined with the high level of starts, this increase in supply may mark the first signs of cooling for the overheated housing market.

One metric for construction, the AIA's Architectural Billings Index, remains curiously positive. Unlike most measures of the market, ABI is a forward-looking indicator. The index is a result of a binary survey, which asks if a firm's billings were higher or lower than the previous month. The April ABI was down from March, from 58 to 56.5, but still at a high level. While the April reading was topped four times in the months following the rollout of vaccines in 2021, no other month had as high a share of firms with billings gains in either the Trump or Obama administrations.

The significance of this high reading is the reliability of the ABI for forecasting construction nine months to a year in advance. The April reading seems to validate anecdotal evidence that owners in many sectors of the construction industry were forging ahead with projects in spite of inflation, or choosing to have them re-designed to fit the current pricing environment. While it could be that continued inflation will halt the projects being designed now, the fact that design is still at high levels six months into double-digit construction inflation is encouraging.



By Labor Day, there should be greater clarity about the major driving economic factors. Fed Funds rate should be at two percent, with another potential increase to come in September. Inflation should be falling if the economy cools and supply chains are normalizing. None of those are certain bets, of course. There are other economic concerns. China's economy is unlikely to grow more than five percent and could be somewhat lower if COVID-19 remains a regional problem there. The global economy will be slower overall. Global weakness and higher rates will further strengthen the U.S. dollar, making it more difficult for U.S. companies to export. More clarity is unlikely to mean a more favorable view. BG

WHAT'S IT **COST?**

The June 14 report on producer price inflation mirrored what has been reported on consumer inflation over the past 60 days. Year-over-year inflation remains extremely high for producers; however, the rate of inflation has stopped increasing and has eased slightly. During the run up in construction inflation over the past 15 months, the rate of inflation has paused for two or three months on three separate occasions, only to soar higher. As the government and central banks turn their full attention to reeling inflation back to the long-term trend, the unanswered question is whether this latest pause is the turning point in construction cost escalation or merely another launching point.

The producer price index (PPI) for new nonresidential buildings was up 0.4 percent from April to May and 19.3 percent year-over-year, according to the Bureau of Labor Statistics. The May pace of inflation was 3.7 percentage points lower than in the previous month, a significant change in direction. The biggest increases from April to May were related to the oil price. Energy inputs to construction was 10.6 higher, as was the price of #2 diesel fuel, which was 84.9 percent higher year-over-year. There were notable declines in the industrial metals. Copper and brass mill shapes fell 4.1 percent, while aluminum mill shapes declined 3.8 percent. Prices for scrap metals fell steeply, with iron and steel scrap dropping 11.8 percent and stainless steel falling 13.1 percent. Steel mill products saw a 10.7 percent increase, however, after cooling for several months.

The context for these data points is important in mid-2022. There are several trends worth watching for those looking for signals about construction inflation over the remainder of 2022.

- May's producer price inflation reflects little or no impact of the monetary policy actions taken by the Fed since March. Changes in producer price trends reflect changes in supply chain and/or perceived changes in future demand. In May, the supply chain remained disrupted and demand for construction materials had not cooled.
- While the construction workforce remained in short supply, which put more upward pressure on wages than in the overall labor market, wage pressures in the larger economy eased through May. As reported in the May Employment Situation Summary, wages increased at a 5.2 percent clip year-over-year, but only 0.3 percent compared to April. Moreover, the three-month rate of increase declined from six percent earlier in 2022 to 4.5 percent in May.
- Core inflation eased in April, following the first decline in March. Core inflation is the measure preferred by the Fed because the spending data comes from businesses, and it provides a better gauge of how consumers are moderating demand for a broader base of items. The main drivers of inflation, food and energy prices, remain elevated; however, the decline in core inflation suggests that consumers have begun to respond.

These are merely early indicators of a potential change in direction, not a change in the trend. Construction costs will not retrench to "new normal" levels until a fully functioning global supply chain is restored, but the latest readings on inflation offer the first signs that the pace of inflation is responding to the Federal Reserve Bank's interventions. The slowdown in wage growth is an important indicator, as it suggests that the perception of continuing inflation has not yet become baked in. And the fact that there are signs of changes in consumer behavior increases the potential for inflation to cool while the supply chain re-balances in 2023. BG

PERCENTAGE CHANGES IN COSTS Consumer, Producer & Construction Prices	May 2022 compared to 1 mo.	 3 mo.	 1 yr.
Consumer price index (CPI-U)	1.0	3.0	8.6
Producer price index (PPI) for final demand	0.8	3.3	10.8
PPI for final demand construction	0.4	4.8	19.0
PPI for new nonresidential buildings	0.4	4.8	19.3
Costs by Construction Types/Subcontractors			
New warehouse construction	(0.1)	5.0	30.7
New school construction	0.0	4.6	15.5
New office construction	0.6	4.4	19.3
New industrial building construction	0.9	5.7	23.5
New health care building construction	0.1	5.0	15.3
Concrete contractors, nonresidential	0.3	3.6	20.1
Roofing contractors, nonresidential	1.0	6.1	17.8
Electrical contractors, nonresidential	0.7	2.9	12.0
Plumbing contractors, nonresidential	0.5	5.3	15.4
Construction wages and benefits	N/A	0.6	3.4
Architectural services	0.2	1.0	2.8
Costs for Specific Construction Inputs			
#2 diesel fuel	11.6	41.9	84.9
Asphalt paving mixtures and blocks	2.4	0.2	16.1
Cement	0.0	1.5	6.8
Concrete products	1.4	3.7	12.0
Brick and structural clay tile	0.0	0.4	8.3
Plastic construction products	1.7	4.8	29.5
Flat glass	0.4	0.4	9.8
Gypsum products	7.9	8.5	23.9
Lumber and plywood	1.4	(6.0)	(14.5)
Architectural coatings	0.8	11.1	31.6
Steel mill products	10.7	6.9	32.9
Copper and brass mill shapes	(4.1)	0.8	3.4
Aluminum mill shapes	(3.8)	5.5	31.2
Fabricated structural metal	1.2	8.5	39.8
Iron and steel scrap	(11.8)	10.2	14.8

Source Bureau of Labor Statistics, Updated June 14, 2022
Compiled by Ken Simonson, AGC Chief Economist

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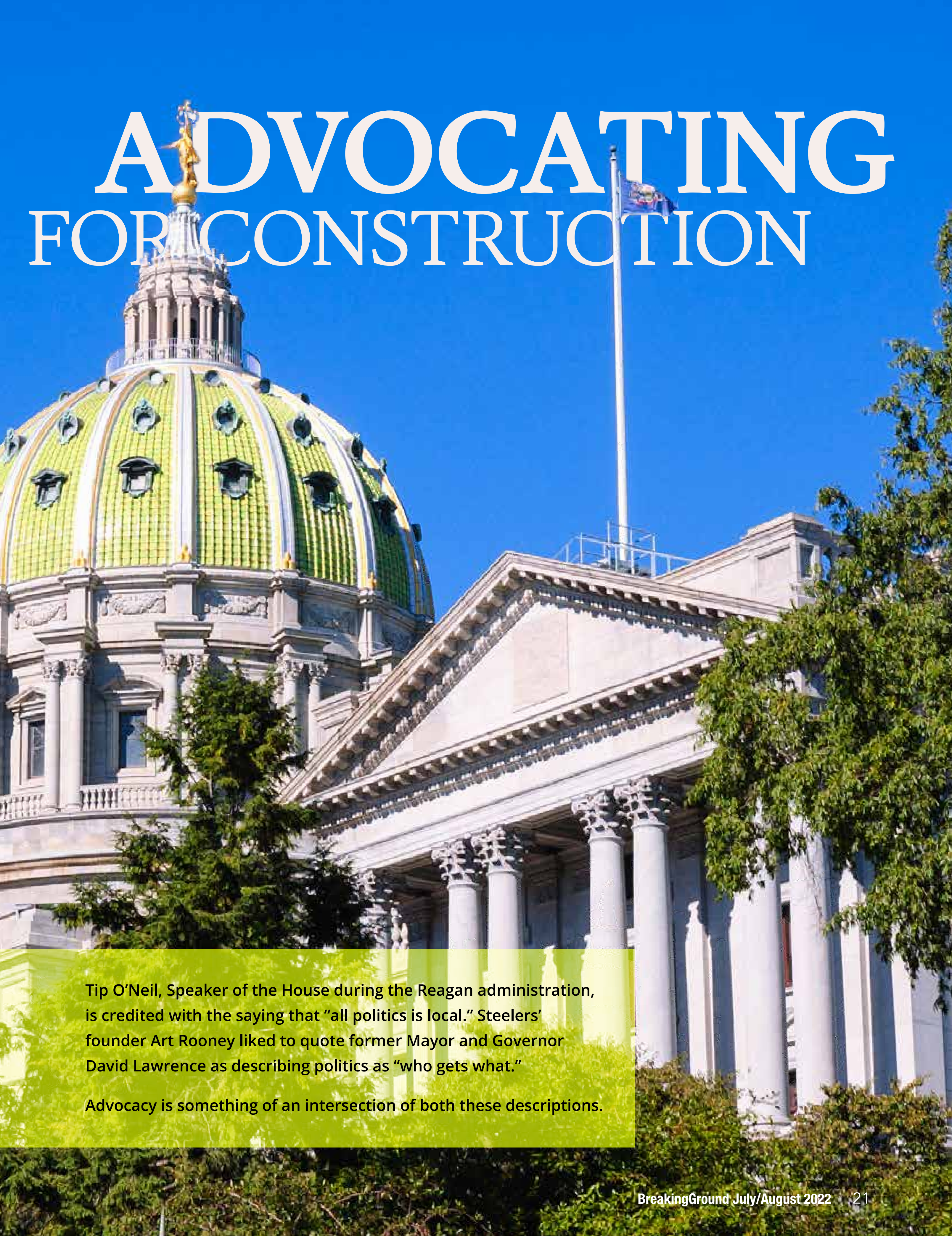
ADVOCATING FOR CONSTRUCTION



Tip O'Neil, Speaker of the House during the Reagan administration, is credited with the saying that "all politics is local." Steelers' founder Art Rooney liked to quote former Mayor and Governor David Lawrence as describing politics as "who gets what."

Advocacy is something of an intersection of both these descriptions.

If you search Shutterstock or iStock for images associated with advocacy or lobbying, you will get plenty of photos or graphics of slick-looking people holding their hands out with money in them, or some version of that scene. It appears most people associate money with politics, or at least they associate the exchange of money for influencing policy. Judging by the lives of the politicians who trade their elected positions for million-dollar lobbying jobs on K Street, it is easy to understand why most people make that association.

The professionals working as advocates for the construction industry are missing out on that million-dollar lifestyle. When you talk to these folks you discover that their work involves trying to impart fairly basic information about the construction industry (most of which is common knowledge for someone working in construction) upon elected officials who have had little to do with construction. A lot of the things that work out for advocates come from being in front of these officials all the time, so that when something of importance to the construction industry comes across the politician's desk, that politician knows who to call for answers.

In today's advocacy landscape, in which communications is fragmented well beyond three major networks and basic cable, it takes much more work to get the same message across. Add to that mix a political atmosphere in which younger, more extreme elected officials care more about making headlines than laws and you have the recipe for gridlock and frustration. But the professionals advocating for construction, design, and real estate are still making a difference.

Effective Advocating for the Industry

Construction as an industry is one of the largest contributors to gross domestic product (GDP). Construction spending contributes between four and six percent of the total GDP in the U.S. in any given year. Only manufacturing and government are larger individual sectors. As a large, and risky, business sector, construction sees its share of regulation and legislation. As with most regulation and legislation, there is a pendulum that tends to swing between what helps the workforce and/or the public and what helps employers. It is the role of the advocate to ensure that the pendulum moves.

Advocacy as a concept is something of a dressed-up version of lobbying or old-fashioned influence peddling. Professional advocates will balk at that description, but it is no coincidence that a large number of ex-politicians find work with private-sector organizations that require a lot of lobbying. To the extent that such lobbying stays on the legal side of influencing decisions, it is logical that former elected officials would make the most of the relationships built during their time in office. Construction professionals suggest that it is the relationships that are the most effective tool in an advocate's belt.

Rob Vescio, principal at Denton's and lobbyist for the Master Builders' Association of Western PA (MBA), sees his role as a resource as the foundation of the relationship with legislators.

"What is paramount now more than ever is to build the trust that what you're telling them is true. There's a lot of noise out there right now in the field of public relations so it's more important now than ever that what we are saying is true," Vescio says. "You have to be in front of them constantly, not just when your issues are in front of them. It's important to be a resource for them. Elected officials are asked to work with a lot of issues that they're not aware of, especially construction, which is very complicated. Elected officials have tough jobs and for us to be there for them is key. We preach that with clients including the MBA."

"It's important that the person advocating has subject matter expertise. It's critical that an advocate has a level of knowledge that conveys that they are a trustworthy messenger of that information," says Matt Smith, president of the Greater Pittsburgh Chamber of Commerce.

Smith was a member of the PA House of Representatives from 2007-2012, and he served as PA Senator from 2013-2015. He echoes Vescio's point about the information overload that elected officials face.

"It's critical [to be trustworthy] because policymakers are hearing about big issues from so many different audiences. There are stakeholders on every side of an issue," Smith says. "There is a lot of noise so if you can establish yourself as a trusted resource of information, it's a tremendous advantage. If a person wants to do robust advocacy that is one of the first things they need to nail down."

"One thing that we figured out is that politicians are going to make decisions. If they don't understand our industry, we can't blame them," says Chad Jones, executive director of the National Electrical Contractors Association of Western PA (NECA). "They're going to make a decision with the information they have."

Jones believes that his members, particularly the owners of the electrical contracting businesses, are the most effective messengers about the issues that bear on the industry.

"We get our contractors to sit down with the representatives, so the lawmaker understands why the issue is important. It's amazing how quickly it becomes a bipartisan topic," Jones says. "Once they're sitting in front of a one of our members, they realize this is a small business owner who may employ 100 or 200 people and the legislation that is being talked about affects how effectively that business operates. That legislator wants to know where they are falling on behalf of the private business owner or on behalf of the union. They can usually figure out the math from that."

Dave Daquelente is the executive director of the MBA and the former executive director of the Ironworkers Employers Association (IWEA). Asked about the most effective advocacy, Daquelente immediately echoes Jones' point.

"My experience at the IWEA and the MBA is that the value in bringing multiple employers and industry advocates together as one voice is that strength in numbers. With that you have strength in fundraising but you also have strength in perspective," Daquelente says. "But while the microphone may be louder when you represent hundreds of employers and tens of thousands of employees, the issues of our individual contractors as employers and construction entrepreneurs are the most impactful when they are delivered directly to the legislators."

"I totally agree. If a policy maker is hearing from someone who is employing people and growing the economy and then feels the issue first hand it has an impact," says Smith. "If a legislator hears about an action that a business owner took or did not take as a result of a policy that is on the books, it has a much greater impact than if it's coming from a lobbyist or advocate."

Steven Massaro, president of Massaro Corporation, is past president of the MBA and is the current board president of the General Contractors Association of Pennsylvania. Massaro maintains relationships with elected officials locally, in addition to those developed as a leader in larger associations. Those relationships give him the opportunity to deliver those kinds of messages directly to decision makers.

"The legislators tend to listen more to an employer. We employ dozens or hundreds of people and that gets their interest," Massaro notes. "And on the other side of the coin they need our support and our ability to have a fundraiser."

Bob Dagostino, president of Dagostino Electronic Services, is one of the NECA members who also takes time to meet with legislators.

"I believe in education. Anytime you are teaching somebody something that they don't know, it's a good thing," Dagostino says. "A lot of that education just comes from telling real-life stories about how it impacts you. It's a lot easier to talk about how a particular piece of legislation is affecting the business owner or our employees."

Effective advocacy requires effective communications, something that is more challenging in an era of seemingly endless communications channels. Jeff Nobers, executive director of the Builders Guild and the Pittsburgh Works Together initiative, stresses that speed is important no matter the media of choice.

"One of the keys to advocacy or any communication is timeliness. You can't respond four days later," Nobers says. "I have seen many times where an event happens that requires a response, but the response comes six days after the fact. At that point the response is almost irrelevant. The response should almost be in real time if you can."

Nobers gave an example of a recent PA Democratic Senate caucus meeting that was open to the public via Zoom. There were several assertions made that Pittsburgh Works Together felt should be challenged and Ken Zapinski from Pittsburgh Works was able to use the chat function to offer the attending media information that spawned questions of the legislators.

As important as it may be to educate elected officials about the issues, an advocate for the industry will not be as successful if they do not demonstrate how the official can benefit by supporting the industry or the issue at hand. For the most part, there will be an implication that support equates to votes, either from the advocate's clients or from the constituents who benefit from the support. There is also the reality that advocacy includes fundraising or financial support, although advocacy professionals insist that the impact money makes is exaggerated.

"What is paramount now more than ever is to build the trust that what you're telling them is true. There's a lot of noise out there right now in the field of public relations so it's more important now than ever that what we are saying is true," Vescio says.

"Fundraising is more of an entry fee than an influencer," says Daquelente.

"Campaign contributions are part of political speech but when I was in office one of the things that was most effective was if an advocate could create a critical mass around an issue so that I was hearing from key stakeholders that were my constituents," Smith says. "If a legislator goes to an event over the weekend and organically 10 people speak to him about the same issue, that has a tremendous impact."

"Good projects outweigh any political contribution. Campaign contributions aren't as important as people think," says David Caliguiri, president of the Caliguiri Group, which advocates on behalf of NAIOP Pittsburgh, the commercial real estate association. "Politicians need them, but they want to show up in the community at a ribbon-cutting or groundbreaking to celebrate a project they supported that is good for their constituents."

"It's about a win-win for both the developer and the elected official," continues Caliguiri. "The reality is both sides want to win in any situation. The developer wins when there's a high-quality project and the elected official wins when that project is in that politician's community and it helps the community thrive."

Allegheny County Executive Rich Fitzgerald zeroes in a bit further on Caliguiri's point, focusing on the economic value of a project, rather than its popularity.

"The number one factor would be the economic impact, the job creation factor. I can be in favor of a project but that doesn't mean I am for putting public money into it. Those are two different things," Fitzgerald explains. If there is something being built that will bring wealth into the region – manufacturing, tech, robotics, tourism, or things like that - there may be a benefit for public investment. A lot of it goes to the credibility of the people coming with the project. What has their track record been? Can they get a project built and up and running?"

There are more difficulties associated with getting elected officials from both sides of the aisle to support projects. While there were always issues that tended to animate Democrats or Republicans more than their counterparts, politicians of all shapes and colors generally got behind issues or projects that brought jobs or resources to their communities. Today's political environment is one in which an elected official may oppose something of benefit to their constituents if it is supported by their rival party. That possibility complicates advocacy.

"Polarization has made things more interesting. There are lawmakers who are now dominating social media and are more interested in attending a meeting so they can be photographed and then leave. That's happening in both parties," says Vescio. "That's a challenge for advocates when we are trying to educate officials on an issue about the industry. We still spend time reaching out to those lawmakers to emphasize that they should at least be informed about the issues they are talking about."

To work within a more polarized environment, effective advocates are broadening alliances, working with groups that might not have been on the same side of most issues 30 years ago. In the 1960s it would have been highly unusual to see contractors and organized labor on the same side of an issue, likewise with corporations and labor. That extended to political support, which usually translated to Republicans siding with business and Democrats with labor.

The passage of Act 89 in November 2013 may be the best example of such an effort. A bill that provided much-needed additional funding for transportation projects, Act 89 brought together contractors' associations – including those for general and specialty contractors that often disagree – labor unions, corporate leaders, politicians from both sides of the aisle, and infrastructure advocates. The bill was given little chance of success in summer 2013 and was dead on arrival when it was first put to vote. The outcry from its proponents, a response that included prominent corporate CEOs calling legislators' personal phone numbers, was so strong that Republican legislative leaders reversed course and held a second vote within days. Act 89 passed with overwhelming support. The passage of the Bipartisan Infrastructure and Jobs Act in 2021 showed that there is still a recipe for federal legislators to reach across the aisle. Such opportunities, however, will be fewer and farther between.

The Issues

It may be because the polarized environment makes progress unlikely, but there are relatively few major issues that are being pushed forward by construction industry advocates. In fact, a fair amount of energy and resource are being applied to the infrastructure legislation, even though it is already the law of the land.

"Our number one issue is ensuring that the administration appropriately implements the bipartisan infrastructure bill that was passed last year," says Brian Turmail, vice president of public relations and strategic initiatives for the Associated General Contractors of America. "We are seeing efforts from the Biden Administration to impose measures that will undermine its aim to put people to work improving our infrastructure."

Turmail cites the more onerous "Buy American" policy that has hamstrung suppliers and the directives from the Federal Highway Administration, which has advised states not to expedite environmental reviews and to prioritize maintenance over adding capacity. Neither of those objectives are in the bill.

"We're also working with the administration to make sure the regulatory measures that are put in place are helpful to the economy, not counterproductive," Turmail says.

More of the advocacy is being aimed at the state legislature, aiming to influence lawmaking and improvements to the Commonwealth's business competitiveness.

"One of the things GCAP is concerned with is workforce. Where is it coming from? How are we going to backfill for retirements? How are we going to maintain the current volume of work in Pennsylvania with the skilled labor that we are all trying to develop, recruit, and retain?" Massaro asks. "We think there are clear policies that could help with recruitment, with more diversity, and with re-entry into the workforce. I think all those things need to be in play."

Michelle Fanzo, executive director of the Pittsburgh chapter of the American Institute of Architects, says workforce is a hot button with her members also.

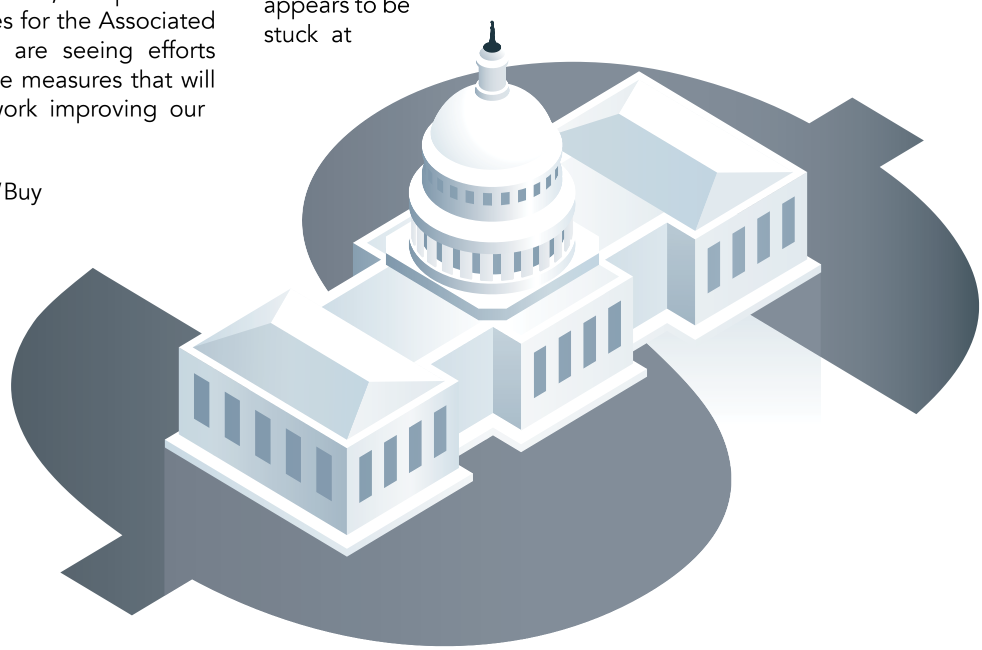
"If you have a lot to build and not enough designers, that's a problem," she says. When you look at the list of what's coming in the pipeline in the next few years, you wonder where the architects will be coming from."

Another issue that has almost universal support from the construction industry is the current effort to lower Pennsylvania's corporate net income (CNI) tax rate. While the direct benefit of the reduction in CNI will be felt by the owners of construction businesses, the downstream effect of making it easier to attract business to

the commonwealth will result in more opportunities for construction and development.

GCAP is focused on several issues that will affect general contractors, but which also have the potential to make construction easier or more difficult for owners, specialty contractors, or architects.

One bill that appears to be stuck at



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the moment is House Bill 424, which is aimed at establishing an anti-indemnification law for Pennsylvania construction contracts. Pennsylvania is one of the states that does not attempt to clarify a limitation on the risks associated with multi-party construction agreements. Absent such legislation, the risk of damages from negligence by other parties – whether that is subcontractors, vendors, designers, or even owners – is borne by the entity at the top of the food chain, usually the general contractor or construction manager.

There are several versions of bills to strengthen the commonwealth's immigration verification laws. The current E-verify regulations have largely been ignored by state agencies, most notably the Department of General Services. Neither GCAP nor other construction industry advocates have devoted resources to backing the bills, although they are generally in favor of strengthening E-verify, because there is little to suggest enforcement would improve as a result. GCAP is also supporting the recommendations of a task force examining the growing problem of misclassification of workers, although no legislative remedy has yet been proposed.

Rob Vescio notes that there is still work to be done allocating the billions in federal funding that has come to Pennsylvania through the bipartisan infrastructure bill and the various COVID relief bills.

"We are about five weeks out from the end of June to try to get the budget done. There's still a lot of federal money to be appropriated, so there will be a lot of wheeling and dealing over the next five weeks," Vescio notes. "One of challenges is that that both the House and Senate Appropriations chairs lost their re-election campaigns. That complicates this budget even further."

One legislative effort that is being led by the general contractors' associations, but with broader support this time, is a reformation of the commonwealth's Separations Act. Part of a procurement code written more than 100 years ago, the Separations Act mandates that publicly-owned projects bid to at least four prime contractors. Opponents of the Separations Act claim that it is outdated and adds significant cost to public projects, most notably in the form of claims and change orders that would not arise were there a single entity in contract with the owner. Supporters claim that the Separations Acts increases competition and eliminates the general contractor's markup of the subcontractors' bids.

Analysis of how the Separations Act functions is complicated. Supporters have been able to point to the fact that bids on separate prime contracts are usually lower than those bid as a single prime when owners have chosen to bid their projects both ways. Those looking to reform the Separations Act point to the final cost of the separate prime projects, which typically experience claims and change orders of ten percent or more. For their parts, owners and architects lean towards reform because contracting with a single general contractor mitigates the number of claims and delays that occur.

Historically speaking, efforts to reform or repeal the Separations Act have failed because legislators are mostly ignorant of how the construction industry operates and because the past efforts have been opposed (or at least unsupported) by the Pennsylvania Building Trades Council. Because the mechanical and electrical contractors supported the Separations Act (and outnumbered the general contractors), the Building Trades Council did not support reform. With new leadership at the Building Trades Council in July, there may be a change in attitude about the Separations Act.

The supporters of reform, which primarily calls for allowing owners the choice of separate or single prime contractors, have taken a page from the Act 89 playbook. The effort has been led by general contractors' associations but includes support from groups with widely varied interests, such as the Green Building Alliance, the Coalition for Procurement Reform, Eastern Atlantic States Regional Council of Carpenters, PA School Boards Association, PA Chamber of Business and Industry, Design Build Institute of America, and the County Commissioners Association.

"It has been a long time coming, but the industry is more unified on some kind of change occurring. It will not happen this year but it's something that we as a coalition are on board with, getting some kind of remedy from the Separations Act in 2023," Vescio predicts.

At the statewide level, AIA is advocating for revisions to the building code or incentives to designing more sustainable buildings. At the local level, however, the Pittsburgh chapter has its own advocacy committee, which is placing a high priority on influencing the many city review departments to process projects more efficiently. That is a goal that is shared by nearly everyone involved in construction.

"We are working with the mayor on permits, licensing, and inspections to make sure that his office is listening to the concerns of our industry as we work in the city," says Vescio.

"Right now, in Pittsburgh and in Pennsylvania the number one issue is the time it takes related to permitting. The process is very cumbersome and can delay a project to death," says Caliguiri.

Most of the ire is directed at the city's Department of Permits, Licenses, and Inspections (PLI), which issues the building and occupancy permits needed to start and complete construction. PLI has been significantly understaffed since the late 2000s and the city's finances precluded adding to staff. There is also a proliferation of other review agencies, both city departments and non-government organizations, that are given the authority to approve or comment on a project. It is extraordinarily commonplace for one or more of these agencies to issue review directives that are at odds with another's. The result is inordinately time consuming and expensive, resulting in real business problems for the construction professionals and the occupants.

"It's difficult for any architect but when you talk to a smaller shop, they are apoplectic. On top of slowing the project and annoying the client, the process is a waste of time that they could use to design and be billable," Fanzo says. "Even though standing in line is billable as part of the process, clients don't want to pay for five trips to PLI. Most clients don't understand how painstaking the process is."

The MBA, NAIOP Pittsburgh, and AIA Pittsburgh have collaborated on numerous informational seminars and have advocated separately, and in concert with one or another, with all the city's stakeholders, including the last two mayors. The AIA-MBA Joint Committee meets with PLI quarterly, and AIA's and NAIOP's advocacy committees also meet regularly with the city. No one from the industry associations reports disagreement about the need for improvement, but the problem is as much structural as it is one of motivation.

"I think we've built better relationships, which is always the first step. But tactically have things gotten noticeably better, no," admits Fanzo. "I think we have to consider that a big part of the problem may not be in the control of PLI. They are only one cog in the machine. It does no good to have PLI improve if the process breaks down at DOMI or zoning. We have to find someone with authority over all of them to enact change. I believe that's going to be an ongoing issue."

Although the tortured entitlement and approval process remains a frustration for property owners and construction professionals, the track record of industry advocates with local government is far stronger than with state or federal officials. In recent years, trade associations have been able to inform city and county leadership about unintended (and intended) consequences of environmental, building code, or land use regulations that created problems for businesses and crafted compromises that satisfied all sides. Allegheny County recently enacted a sick leave law that was at odds with the provisions of labor agreements for workers' sick leaves, potentially leaving union workers excluded from the benefit the law intended.

"We were concerned because the construction trades would have a double hit on paid sick leave because of our collective bargaining agreements. The county did not understand what our current agreements included. It was a good example of a well-intentioned action having unintended consequences," says Vescio. "County council listened and did a great job of amending the language so that the workers were not left out. We appreciate the work of the council and the county executive's office because they listened to our concerns."

Vescio notes that the negotiations were a good example of the relationships of which he spoke earlier. With trust developed over time, the MBA could explain how the craft worker would be impacted adversely. Were Vescio or the organization viewed with distrust, it is possible they would not have been able to even gain a hearing, let alone reached an understanding about the issue.

"You literally have to have the trust of elected officials," says Vescio. "There's something to be said about a face-to-face meeting when you're trying to explain an issue."

That face-to-face conversation with a trusted ally – or adversary – is something that has been more of a challenge since March 13, 2020. Vescio notes that having the legislatures move to remote sessions has been helpful in getting laws passed, but the loss of regular face time has forced advocates to adapt. The pandemic coincided with an ongoing generational change in the political landscape.

"One of the challenges for people in government these days is the rise of a new guard who are rising faster than the old guard wants. That's where the change is happening in politics," says Vescio. "That happens in every generation, but the question is whether or not the next generation has enough institutional knowledge to get things done."

Such a changing of the guard is a headache for industry advocates who have invested countless hours informing elected officials about the issues and will now have to reinvest in the next generation of officials. That is part of the advocacy game.

"It's a marathon, not a sprint. You want to bring the elected officials on board early. Get their ideas," says Caliguiri. "They know the community intimately better than you will ever know the community. If you get support from day one, it makes a process go a lot smoother."

Part of a procurement code written more than 100 years ago, the Separations Act mandates that publicly-owned projects bid to at least four prime contractors. Opponents of the Separations Act claim that it is outdated and adds significant cost to public projects, most notably in the form of claims and change orders that would not arise were there a single entity in contract with the owner.

Photo by Rocky Bleier Construction Group.

PROJECT PROFILE

VA PITTSBURGH HEALTHCARE SYSTEM UNIVERSITY DRIVE TOMOTHERAPY UPGRADE

In October 2021, Rocky Bleier Construction Group completed a small, but mission-critical, radiation therapy suite for the Veterans Administration (VA) Pittsburgh Healthcare System's University Drive facilities in Oakland. Like many small healthcare projects, the construction cost was less than half the price of the $2.5 million new tomotherapy equipment. The means and methods, planning, and logistics of the tomotherapy upgrade – amid a pandemic – matched those of a project many times its size.

The primary challenges of the project were almost incidental to the replacement of the tomotherapy equipment, which is used to treat cancer through intensity-modulated radiation from multiple directions. The tomotherapy suite consists of two rooms, totaling less than 1,000 square feet. Before tackling the relatively straightforward renovations of the therapy suite, Rocky Bleier Construction Group had to build two unusual solutions to allow for the continuous operation of the adjacent therapy suite and to remedy a long-standing headache for equipment replacement.

The project was contracted at the end of 2020 through a design-build proposal process for service-disabled veteran-owned small businesses. Rocky Bleier Construction Group responded to the request for proposals, although the process was what John Tobin referred to as "design-build-ish."

"The VA engaged Bancroft Architects & Engineers to prepare 70 percent design drawings. At that point the project went out as a design-build solicitation," recalls Tobin, director of business development at Rocky Bleier Construction Group. "There was little enough design left to do that we partnered with Bancroft on the proposal. Working with levelHEADS and H. F. Lenz, we pulled that last 30 percent together."

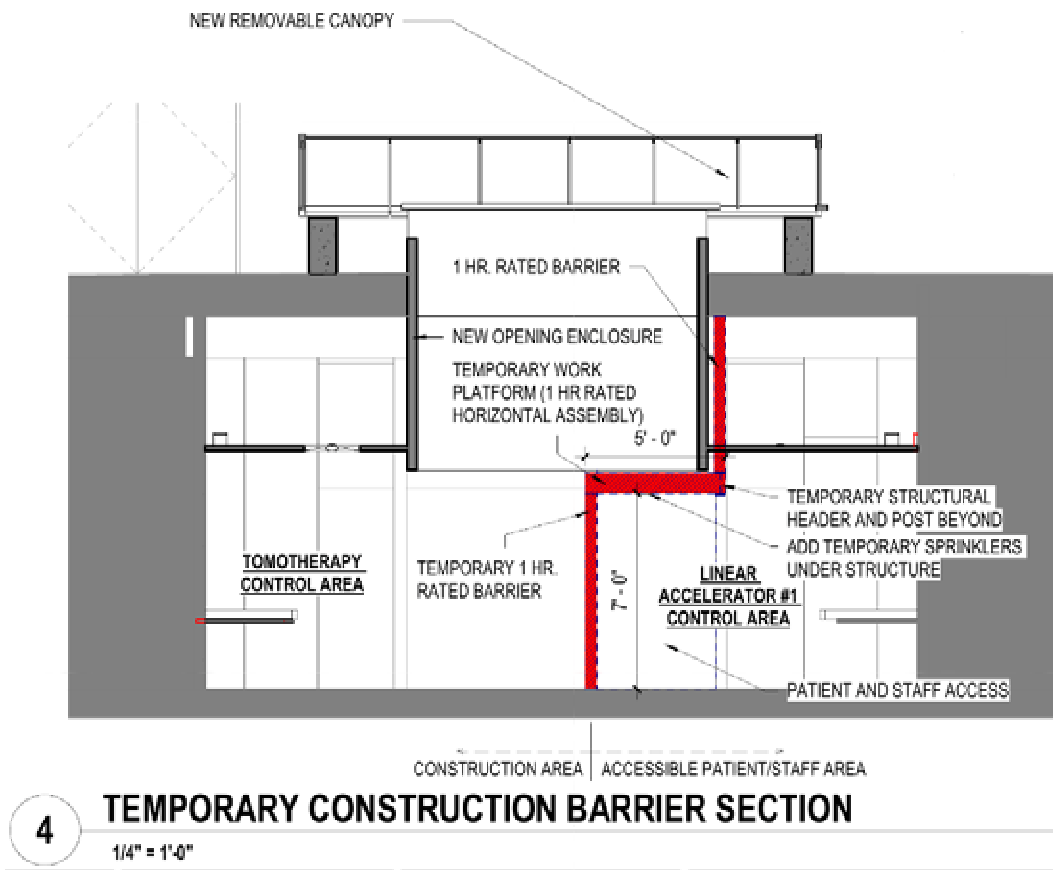
For Bancroft, the relatively small site and specific use of the area presented the biggest design challenge.

"The biggest challenge was working with the room constraints as far as radiation protection. We were working with three-foot-thick concrete walls and lead shielding that you can't alter. Designing the room around those existing conditions and adjusting to fit new, usually larger, equipment that require more clearances was difficult," says Matthew Bastin, director of healthcare design for Bancroft. "The other challenge was just getting the equipment in and out of the area."

Rocky Bleier Construction Group began preconstruction at the end of 2020. During the next 90 days, the project manager, Jim Kephart, Rocky Bleier Construction Group's director of construction operations, led a process that was heavy on planning for means and methods. The VA was keeping the linear accelerator suite, which was adjacent to tomotherapy, open for patient treatment 24/7 throughout the project. That meant an Infection Control Risk Assessment (ICRA) solution that was extraordinary.

"Before we did anything, we had to establish the ICRA containment. The VA was skeptical that there could be an infectious control solution that allowed patients comfortably into the accelerator room while construction was ongoing," Kephart says. "This was the most complicated ICRA solution I've ever done in my career."

The solution was the construction of a fully finished, fire-rated wall that went seven feet from floor to a finished ceiling that was structural to protect the occupants in the adjoining new corridor, and then connected vertically to the structural deck above.



A full one-hour fire-rated wall assembly (in red) was built as a temporary ICRA barrier and a permanent – but removable – skylight was constructed to allow for equipment access to the entire radiation therapy department. Drawing by Bancroft Architects & Engineers.

"One thing about a design-build project is that we were able to get in early and plan and map everything out. This was literally down to within a quarter of an inch of what we could do in this space. We had to make sure there's enough room to cut in the skylight [more on this below] as well as the ICRA containment," Kephart explains. "The VA didn't want to see just plain drywall. We had to finish it is though it was a finished corridor, including lighting and fixtures. We wanted the VA staff and patients to be oblivious to the construction chaos on the other side of the wall. It was definitely a challenge, but Pittsburgh Interiors and our people completed all of this construction in one weekend."

The "skylight" to which Kephart refers was the solution to another major challenge of the project that had long-term impact. The VA facilities team saw the tomotherapy upgrade as an opportunity to remedy a long-standing access problem for the radiology level, which was below grade. From the time the radiology therapy vault was constructed in the 1990s, any equipment replacement required access through the exterior wall. That meant an expensive and risky excavation of the parking lot to expose the exterior wall, and the penetration and reconstruction of the wall. In addition to the cost and structural risks, the loss of parking in Oakland was disruptive to patients and staff. Equipment vendors eventually asked that there be another point of access.

To solve the problem, it was decided to create a permanent opening of roughly 200 square feet in the parking lot that was watertight and covered with a translucent structure, which was a KalWall skylight. The structure had to be planned and completed, including restoring the parking lot, before the equipment could be replaced and construction begun.

"Some of the people at the medical center thought we were opening Pandora's Box. There was little or no information about the backfill in the parking lot," says Kephart. "Until we pulled the Band-Aid off and looked, we didn't know what we were getting into. But that's the business we're in. How you mitigate risk is through planning, communication, and execution.

"Our structural team designed the above-ground grade beams. Typically grade beams are below grade. There are five-and-a-half-foot stainless steel rods that are inches on center all the way around to support the lid and carry the weight. We built the grade beams and structure before we could create the opening for the skylight."

Providing a permanent, yet removable, opening for equipment access allows the VA to modernize equipment with much less risk

Photo by Rocky Bleier Construction Group.

of damage and at considerable capital expense savings.

"Because of that skylight the hospital eliminated all the hassle and risk involved in replacing equipment. It will save millions of dollars," notes Tobin. "Parking is such a premium at the medical center, and in Oakland as a whole, that it's valuable not to have parking eliminated even temporarily."

"The skylight was from Window Systems. They were fantastic. The skylight has to be removable for years to come, so the quality of that KalWall system had to be excellent," Kephart says. "The VA has removed it three times since the project was completed and there is no problem with water penetration. It was very challenging, but the challenge was accepted because we knew the value it would bring the medical center."

Both the ICRA containment solution and the access skylight had to be completed during the 90-day preconstruction phase of the project. In order to meet the October deadline, Rocky Bleier Construction Group planned the project intensely while the design was being completed. Kephart and his supervision team focused on minor details to ensure that surprises happened during preconstruction instead of in the field. That meant bringing all members of the design and construction team to the table ahead of construction.

"There was a tight schedule. We brought all members of the team in, from designers through subcontractors, and planned every step of the project out during preconstruction," Kephart says. "We did a lot of pull planning to push the trades through one end and out the other. You had to be sure that each trade was ready to go with material and labor on hand. And with COVID we couldn't afford someone to go down who didn't know the ins and out of the project. We were fortunate that we had no down time because of COVID with anyone in the team."

For the equipment installation, Rocky Bleier Construction Group built a mockup of the Accuray radiotherapy machine and rehearsed lifting and maneuvering it into place well in advance.

"I met with Dan Winkelman from All Crane and the build team from Accuray and we mocked up the installation to get it through the skylight, past all the mechanical and electrical. The clearance on the equipment was within inches," Kephart recalls. "We had to spin it as we dropped it into the space in order to clear all the obstructions. Everyone thought I was crazy to think that we could get it through until we did the practice run."

The practice runs were part of an overall approach that Kephart and his team took to get ahead of the normal job site conflicts that occur on a construction project. There was no room for oversights or miscommunication, either in the small space or the tight schedule. Kephart reports that there were only 35 requests for information during the project, nearly half of which were the result of a change in the equipment specifications.

Work was completed in October 2021 on

To solve a permanent equipment access problem, an opening was cut into the existing parking lot and a removable Kalwall skylight was installed. Photo by Window Systems.

schedule. One of the most noticeable details of the finished tomotherapy suite is a "soothing wall" built at the foot of the tomotherapy machine in the line of sight of a patient who is being treated and must remain still within the equipment.

"The intent is to distract and soothe the patient throughout the procedure. We were trying to replicate the concept of the Northern Lights. When colored lights shine across the wavy texture of the wall in a certain pattern, it simulates the soothing effect of the Northern Lights," Bastin says. "The wall surface is a textured two-foot patterned gypsum board product."

"All things considered, the project went very well. There were a lot of things that could have gone wrong, but the project was executed very well," concludes Bastin.

"Communication and planning were the keys to executing the project. One thing you can't do on a project like this is throw labor at it. We were limited by the size of the crew that could fit, plus we had restrictions from the pandemic," says Kephart. "We executed a just-in-time delivery process for the trades. The right people were on site at the right time to complete the work. That was the key to making the schedule work in the time frame we had."

"Everyone bought into the idea that the person painting the room was just as important as the crane operator flying in a $2.5 million piece of equipment. Without each of them doing the critical step along the way the team would not have succeeded," he continues. "We tried to eliminate everything that was in the way of their performing at the highest level. There was so much planning and coordination throughout every step of the project, but it came together extremely well. I can't say enough for the team and the people in the field." BG

PROJECT TEAM

Rocky Bleier Construction Group	General Contractor
VA Pittsburgh Healthcare System	Owner
Bancroft Architects & Engineers	Architect of Record
levelHEADS	Consulting Architect
H. F. Lenz Co.	Mechanical/Electrical Consultant
Modany-Falcone, Inc.	Concrete
Concrete Cutting Systems	Concrete Cutting & Boring
Pittsburgh Interiors	Drywall, Interiors & Painting
Hoff Industries	Casework
Butler Floor & Carpet	Flooring
First American Plumbing	HVAC & Plumbing
Merit Electrical Group	Electrical
Preferred Fire Protection	Fire Protection

LEGAL PERSPECTIVE

NEW APPELLATE CASE MAY HAVE AN IMMEDIATE IMPACT ON CONSTRUCTION DISPUTES AT A CRITICAL JUNCTURE FOR THE INDUSTRY

BY CHAD A. WISSINGER AND BRIAN P. MALONEY, P.E.

As construction litigators, we have often witnessed long periods of time where owners and developers were able to readily resolve disputes with contractors during, or immediately after, the completion of construction. Affordable building materials, reasonable hourly wages, easy access to funds at low interest rates, and incoming tenants with excellent financials (or white-hot residential demand for condominiums, houses, etc.) made resolving all but the largest disputes the path of least resistance. Everyone was making good money, and even significant change orders could be considered a rounding error if it kept a project on track to get space to the market.

Unfortunately, 2022 and 2023 are quickly shaping up to be years like no others, and we expect significant claims to spike as a result. Many contractors will soon realize that they may suddenly be working on their last major project for some time, and owners and developers will both lose access to low interest funding and be asked to pay strikingly elevated prices for virtually everything associated with construction.

There is no way to sugarcoat the data. The National Association of Home Builders reports that material prices have increased over 33 percent since the start of the pandemic, with prices increasing 8 percent in the first quarter of 2022 alone. Commensurately, the price of services used in the building trades, such as transportation and warehousing, have increased by 39 percent since March 2020.

To compound these headaches, inflationary data released on Friday, June 11th, forced the Federal Reserve to increase lending rates by 75 basis points on June 15th. Loans that were quoted at three percent six months ago are now approaching six percent and will likely exceed that number in the coming weeks. Major financial institutions are no longer willing to commit to the final interest rate on pending loans until the week of closing. The added cost of new money will make it considerably harder to resolve disputes, and when that fact is coupled with enormous price increases, the combination could break what have been relatively peaceful processes on many projects.

Add on the recent and widely reported announcement from Amazon CEO Andy Jassy that his company is "no longer chasing physical or staffing capacity," and the makings are in place for a large shakeout in the key warehousing sector. The massive building campaign by major warehousing developers have almost singlehandedly kept industrial construction afloat through the pandemic – despite inflationary and wage pressure. However, Amazon's immediate pull back on several projects, coupled with its announcement that it will likely sublease several additional locations, will quickly cool this market segment for the foreseeable future. Other owners and developers will complete projects in construction and spend time assessing needs beyond planned existing capacity.

Additionally, a comprehensive study just completed by the NYU Stern School of Business and the Columbia University Graduate School of Business estimates that US office building holdings will collectively lose $500 billion in value in the next five years. Their findings are based on assumptions regarding current levels of work at home rates, and the structural loss through nonrenewal of leased space, particularly in Class B and C buildings, as long-term commercial leases come due for renewal for the first time since the pandemic began. Emma Goldberg summarized the issue simply when she wrote in the New York Times on June 9th that "Optimism about return-to-office plans, across industries and cities, is slowly abating. When asked in early 2021 about the share of their workers who would be back in the office five days a week in the future, executives said 50 percent; now that percent is down to 20." Christina Ross, the CEO of a software firm, was quoted in the article as saying "It's almost like a meme now of the 2018 office – 'hey we have bagels and snacks and Ping-Pong tables' Ms. Ross said. 'That's not a trade-off for a commute.'"

Major building renovations, particularly full-blown use conversions, are expensive, claims intensive, schedule-eating monsters. This stands in stark contrast to massive single-level, open-floor plan styled Unlimited Area Buildings such as warehousing. Between the significant price increases which will surely not reverse themselves in the short term, the loss of low-interest capital, and the market's need to switch its focus from easier to more complex projects, all indicators point to more claims in the near term.

Against this backdrop of a rapidly changing construction landscape, many states have updated their versions of prompt pay statutes to the benefit of contractors generally. In 2018, the Pennsylvania legislature passed several amendments to the Pennsylvania Contractor and Subcontractor Payment Act ("CASPA"), 73 P.S. §§ 501 et seq. Included in those amendments was a requirement for owners who want to withhold payment from a contractor to "notify the contractor of the deficiency item by a written explanation of its good faith reason within 14 calendar days of the date that the invoice is received." 73 P.S. § 506(b)(1). Moreover, "Failure to comply . . . shall constitute a waiver of the basis to withhold payment and necessitate payment of the contractor in full for the invoice." 73 P.S. § 506(b)(2).

Although no Pennsylvania appellate court has yet interpreted this portion of the statute, we are aware of private arbitrations where owner/developers were forced to pay significant additional sums in penalties and interest as a result of the failure to comply with these provisions. And now, the Appeals Court of Massachusetts recently issued an opinion strictly interpreting a similar Massachusetts statute.

The Massachusetts Prompt Payment Act, Mass. G. L. c. 149, § 29E, includes a provision stating that owners must approve or reject applications for payment within "15 days after submission." Mass. G. L. c. 149, § 29E(c). The Massachusetts Prompt Payment Act goes on to state that "An application for a periodic progress payment which is neither approved nor rejected within the time period shall be deemed to be approved unless it is rejected before the date payment is due." Id. (emphasis added). Any rejection of an application for payment must be in writing and must "include an explanation of the factual and contractual basis for the rejection and shall be certified as made in good faith." Id.

In Tocci Building Corporation v. IRIV Partners, LLC, 2022 WL 2035767 (App. Ct. Mass. June 7, 2022), the court strictly applied this requirement of the Massachusetts Prompt Payment Act. The court methodically discussed seven applications for payment and the written responses, if any, provided by the owner in response to each. The court determined that each response did not comply with the requirements of the Prompt Payment Act, primarily because the owner did not provide "an explanation of the factual and contractual basis for the rejection." Even for the one response that the Court noted arguably included an explanation of the factual and contractual basis for the rejection, the Court still held that the response did not comply with the Prompt Payment Act because it did not include an explicit certification that the withholding was made in good faith.

The procedural posture of the Tocci case is also noteworthy because the Appeals Court of Massachusetts upheld the trial court's granting of partial summary judgment even while the owner had pending counterclaims for "breach of contract, breach of the implied covenant of good faith and fair dealing, negligent misrepresentation, fraud, negligence, unfair and deceptive conduct . . ., breach of contract as a third-party beneficiary . . ., and breach of express warranty" while alleging that the contractor "performed defective work, failed to perform contractually required work, and submitted fraudulent payment applications."

The court in Tocci set the owner's counterclaims aside, stating that "To allow the [owner] to retain the moneys wrongfully withheld in violation of the statute until the final resolution of their post completion contract action would eviscerate the scheme for prompt payment or rejection-and-resolution created by the Legislature." The Court did clarify that "we do not hold, that the [owner's] claims for breach of contract have been waived by their failure to include them in a proper rejection under the statute. They may bring . . . any and all claims they have for breach of contract against [the contractor], and they may recoup any money they may be owed."

Finally, the Court closed by offering the following advice to owners, which may also be good advice to owners attempting to comply with the latest amendments to CASPA: "If an owner does not wish to make a periodic payment pending resolution of a dispute because it believes it will not in the end owe the money, it must file a prompt rejection in compliance with the statute." To the extent parties involved in current construction projects believe that a potential dispute is more likely than even just a few months ago, we strongly advise the review of this case, and the corresponding prompt pay requirements in the jurisdiction where the project is located, to avoid waiving rights that cannot be regained through ordinary litigation after-the-fact.

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MANAGING EXTERNAL RISK FACTORS – OUT OF YOUR CONTROL DOESN'T HAVE TO MEAN UNPROTECTED

BY JOSEPH A. KOPKO, MS, CSP, CRIS

When we used to utter the words, "change is the only constant", it meant something different than it does today. Those changes were often subtle, gradual evolutions of process, perspectives, and people. The pandemic thrust many of us into a constant, accelerated state of change, driven by reaction and uncertainty, and often feeling helpless navigating an ever-evolving landscape of some familiar and not so familiar threats.

While so much has changed, some things have stayed the same and become even more vital. A robust risk management culture remains one of the most effective ways to combat external risk factors that erode profits, and to position yourself more favorably than your competitors to withstand today's complex environment.

There are many internal risk factors that are unique to your organization, however quite a few of the significant external risks that surround your business aren't unique, and a combination of appreciative inquiry with your broker partner and internal subject matter experts can forge an offensive strategy to meet those risks head on.

Supply Chain Issues

The pandemic certainly exacerbated supply chain issues but we've seen many events in recent history, such as the Suez Canal blockage, that have placed immediate strains on the supply chain. We're all at the mercy of someone else for something as it relates to our business and a great deal of it is outside of our control. Insurance may not be able to take away the risk of a supply chain disruption, but it can exponentially improve your resilience to these events.

- Business Continuity Drills: I know I sound like a broken record, but when was the last time you took a good hard look at the way your business runs and evaluated all the ways your business could be impacted, from severe weather through the loss of a key supplier? These exercises flip a switch with many executives to develop an offensive outlook within their roles to anticipate the next big hurdle, either due to external risk or market strategy. Do you have a contingency plan should you lose your production facility operations, possibly a reciprocity agreement with a friendly "competitor" that might otherwise be looking to bolster their own resilience should such an event occur? The benefits of these exercises are often best exploited by breaking them into ongoing planning meetings as the initial deluge of nightmare inducing scenarios can lead to an overwhelming experience. It's also beneficial to bring in an outside, objective party to help moderate the discussion and keep the initial roundup of business impact events at a high level. We don't need to solve world hunger in these drills, but it would be valuable to know that only one supplier exists for a product we use in 40% of our work, and offensively plan for what a loss of that supplier would mean.

- Insurance Solutions: There are quite a few insurance strategies to respond to supply chain issues as they may arise across a number of fronts. The scenario outlined above where the loss of a key supplier comes to fruition, or even where a main buyer of your goods were to go out of business, coverage can be found. Contingent Business Interruption (CBI) insurance is an extension to your property policy that can respond even when no physical damage occurs at your property. This type of insurance can reimburse the lost profits and extra expenses resulting from an interruption of business at the premises of a customer or supplier. It's important

> ***By introducing the idea that events like a significant delay in materials, departure of a critical employee, or that even an active shooter scenario can occur, you foster the idea that things may not go as expected.***

to note that CBI coverage does not protect against the interruption of the same insured's company's business from damage to its own plants or third-party plants. In addition to CBI, Trade Credit Insurance can step in when a customer defaults on payment. Going further out and looking even more external, Political Risk and Active Assailant coverage is available should your operations be affected by a triggering peril. While the last thing anyone wants to do is purchase more insurance, it's important to look past the policy and utilize the risk analysis, mitigation resources, and advise of your insurers. It's in their best interest to help you prepare!

Personnel

The labor shortage is on track to resolve itself sometime around "not in our lifetime", so how do you make the best of the current situation? Let's look at this through the lens of preservation and protection.

- Innovation with tooling and work methods: Return on investment can be difficult to accurately quantify, especially when the upfront cost is higher than the same old way of doing things. The absence of injuries at this moment doesn't track the active wearing down of your most valuable asset. For every one of those 250 days that your workers are doing their job, the fatigue and wear and tear is accumulating, they're not a battery that gets recharged to full power overnight. If there is a way you can perform your work and it comes in the form of reducing the amount of strain and stress your workforce must endure, it will nearly always improve productivity, injury prevention, and of course retention. Sample questions to get dialogue started; "Tell me about a task we do that requires a lot of effort"? or "What is the worst job we have to do"?

- Insurance Solutions: It pays to have some very candid dialogue with your insurance broker around the problems you may fear becoming a reality. Insurance can be crafted to provide financial assistance to not only provide relief in challenging situations but also to retain key employees. If your business is hinged on a few key people that have no ownership stake, but their departure would be highly disruptive, consider a solution like an employer-sponsored life insurance-funded executive bonus plan. Often known as "golden handcuffs", this strategy can fund a bonus structure to paid be at set intervals to keep them there, as well as life insurance for key employees to facilitate a means of retaining them beyond just compensation. These plans are common and highly effective for several reasons and are easier to implement than you may think.

Information Systems

If I had a dollar for every time I've heard a business say "Our IT provider said that couldn't happen", or "We were told we had the highest level of protection." Well guess what?! The bad actors out there don't care and it's their business to exploit any weakness you don't know about or have been too complacent to give the attention they deserve. Cyber events, including business email compromise and ransomware scenarios steal valuable time, attention, and resources away from your core business operations, and very few businesses fully recover from these events within a few weeks, let alone months. Imagine your organization's cyber resilience as one of the top 3 things you should be focusing on, it affects your ability to operate, communicate, your reputation, and certainly your overall profitability.

- Employee Awareness Training: If you're one of the few businesses that have already started training and testing your employees, you're still probably not doing it enough. An often-overlooked part of the training is encouraging your employees to stop, and validate the sender or source. The sophistication of the attacks being levied at your operations only continues to ratchet up, and your best line of defense is still the human element in conjunction with your defensive IT and cybersecurity controls. It's imperative that you continue to keep your employees' habits in check and foster an understanding that this very company and their employment, along with many others could be in jeopardy simply because we let our guards down. Everyone needs to be always on watch and informed of this responsibility often and with urgency!

- Insurance Solution: Cyber insurance has gotten more expensive over the last two years, considerably more expensive. This is in large part to previously underpriced premiums coupled with massive ransomware payouts, and organizations not taking their cyber hygiene seriously. It's not all bad news, with that increased premium comes a wealth of resources to run pre-emptive vulnerability scans, provide ongoing threat detection, and deploy forensic IT consultants and network restoration experts should an event occur. Think of cyber insurance as the belt and suspenders on your existing cybersecurity program, not only will it enhance your ability to hold your IT provider accountable, but it will provide you with everything you need to manage a cyber event, because they are coming for you, again and again.

Most businesses will reap multi-faceted benefits from more frequent business continuity and business impact exercises that explore the many ways that your operations, profitability, and even reputation can be compromised, especially when it may seem outside of your control. By introducing the idea that events like a significant delay in materials, departure of a critical employee, or that even an active shooter scenario can occur, you foster the idea that things may not go as expected. Developing your leadership and supervisory team's ability to anticipate risk and consistently ask the never-more necessary "what if's" and "who will's" ahead of time, will give yourself an opportunity to beat the odds and prepare for what could otherwise be a "door-closing" event for your business.

Joe Kopko is vice president of commercial risk and chief risk officer at Seubert & Associates an insurance, bonding, and benefits specialist and risk advisory located on the North Shore. He can be reached at jkopko@seubert.com.

TREND TO WATCH

UNDERGROUND CONSTRUCTION IS A RISK TO THE INDUSTRY

Pittsburgh emerged as an attractive location for investment after the Great Recession, as investors and developers found that the steady, if unspectacular, pace of growth meant that Pittsburgh properties did not suffer the losses that were experienced in high-growth markets. That realization brought in much-needed capital for acquisitions and development. As the 2010s unfolded, the new-found interest in Pittsburgh also brought in out-of-state developers that built large new projects, primarily in the multi-family sector.

The boom in out-of-town interest also brought ways of delivering projects that were new to Pittsburgh. One of those, the practice of developers building through labor brokers, also brought about a big increase in workers being paid cash. This practice, when the cash payments are not recorded and reported to the state and federal departments of revenue, creates an "underground" construction industry that saps the public of revenue and makes it more difficult for firms working above board to compete.

"When you wonder why someone does this, the cost savings are enormous. A legitimate contractor, whether they are union or not, can't compete in those circumstances. The Department of Labor estimates that contractors using this model gain a competitive advantage of 30 percent on labor. That savings is not passed on to the owner or workers," says Joel Niecgorski, senior council representative for the Eastern Atlantic States Regional Council of Carpenters.

The model Niecgorski refers to is one in which subcontractors are employed that are labor brokers instead of construction companies. Niecgorski points out that these kinds of brokers differ from the legitimate labor supply companies that have always worked as sources of skilled labor, usually in markets with demand that exceeds the workforce. Legitimate labor suppliers act like employment agencies, helping construction companies hire workers that will become employees, even if only for the duration of one project. The brokers engaging in underground construction are frequently individuals who have access to pools of workers that want to stay off a formal payroll, for a variety of reasons. While the underground industry would occasionally surface in Western PA, it has become a greater concern in recent years.

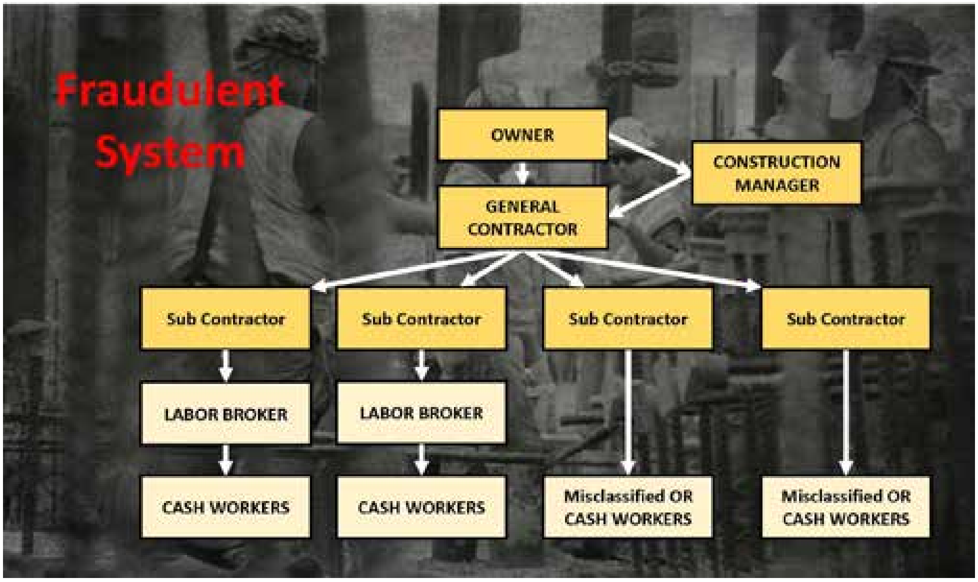
"There is an influx of out-of-town owners and developers coming to Pittsburgh from places like Texas or Florida and bringing that business model here. Pittsburgh had been in its own little bubble. We had open shop and union contractors and we fought it out for market share, but we were insulated from the underground market," Niecgorski says. "If you look at Washington DC or New York City, when out-of-town developers hit those towns, the market flipped. In Washington or New York City as much as 70 percent of the work is done by labor brokers."

Underground construction is a multi-faceted problem for the industry and the community at large. Companies staffing projects through this model are not paying their share of taxes or payroll contributions, including workers compensation funds. Off-the-books workers are often vulnerable to being exploited, either with lower pay or unsafe work conditions. These workers are invariably trying to keep their identity hidden from authorities. In cities where this practice has taken hold authorities have found a correlation to human trafficking and money laundering.

Across the U.S. the underground construction industry grew significantly during the 1990s and 2000s. As fewer workers were paying taxes and other contributions, the impact became more tangible:

- Unreported employment compensation is a $2 trillion problem, according to the Internal Revenue Service (IRS), which claims that more than $500 billion is taxes and contributions are avoided by employers and employees each year.
- A 2014 study of California construction employers found that one worker in six was either paid under the table or was misclassified.
- A New Jersey study that same year found that 35,000 workers in the state had been paid $1.2 billion in wages that were off the books.
- Pennsylvania Department of Labor and Industry found that misclassification of contract workers cost the unemployment compensation trust more than $200 million in 2008, and $81 million in lost premiums to the unemployment system. PA estimates that workers paid under the table outnumber misclassified workers by a two-to-one margin.
- The PA Joint Task Force on Misclassification of Employees found that employers misclassified 389,000 workers in all industries statewide in 2020. The task force estimated that 11,670 of those workers were injured and missed out on $176 million in workers' compensation insurance benefits.

Paying workers in cash in not illegal, but those cash payments must be accompanied by record-keeping and the same payments of taxes and other contributions as if the workers were paid by check net of payroll deductions. That is not the practice of firms that misclassify workers as independent contractor or off the books.



Source: Joint Task Force on Construction Industry Fraud

The IRS infiltrated workers on the site of a large multi-family project being built near the center of Pittsburgh within the past two years and documented incidents of workers being paid cash weekly, without any record of the payment. Using that project as an example, workers being paid $20 per hour for a 60-hour week were not subject to $213 in federal, state, and local taxes, Social Security, Medicare, and PA Unemployment Compensation contributions. In this example, on which 40 workers were employed weekly, more than $8,500 in taxes went unpaid each week.

A task force was formed in 2020 to examine the problem and recommend solutions. The Joint Task Force on Construction Industry Fraud included officials from labor, city, county, and state government, including Allegheny County District Attorney Stephen Zappala. In 2021, the task force developed five recommendations to make the first attempts to reverse the growth of the underground construction industry.

1. Expand the definition of contractor used by the Pittsburgh Bureau of Permits Licenses and Inspections to cover all entities performing construction. The code currently refers only to general contractors.

2. Amend the Office of Management and Budget procurement process to include more severe penalties for labor violations.

3. Strengthen regulations on projects using public subsidies to require documentation and reporting of all workers on site.

4. Build stronger relationships with municipal judges so that they are aware of the proper practices and the penalties for violating them.

5. Create better protections for workers who report labor violations.

"There is no silver bullet to cure the problem. We've talked to the agencies that are responsible for enforcing it and we came up with these recommendations," says Steve Mazza, council representative for the Carpenters, who chaired the task force. "We recommended that the city change its requirements for licensing to include all construction contractors. The other measure we suggested was to have the general contractor list its subcontractors on the building permit."

Mazza notes that there is little or no paper trail to show what firms are working on a job site, which hampers enforcement efforts.

Enforcement of the existing laws and regulations would seem to be a logical first step in reducing the size of the problem but the disincentives to employing the practice are strong. Moreover, resources for enforcement have not kept up with the trend. The Bureau of Labor Law Compliance (BLLC) enforces PA's Construction Workplace Misclassification Act (Act 72 of 2011). The BLLC has 27 investigators in five offices statewide, including Pittsburgh. After hitting a peak of 297 cases investigated in 2015, the cases averaged 192 per year until the pandemic. In 2021, only 88 cases were investigated. A total of 72 firms paid fines for misclassification in 2021, only three of which (totaling $7,250) were in Pittsburgh's jurisdiction.

Although enforcement has increased dramatically under the Wolf administration, resources remain scarce. The total fines handed out since Act 72 became law is $2.74 million, not enough to be a major deterrent.

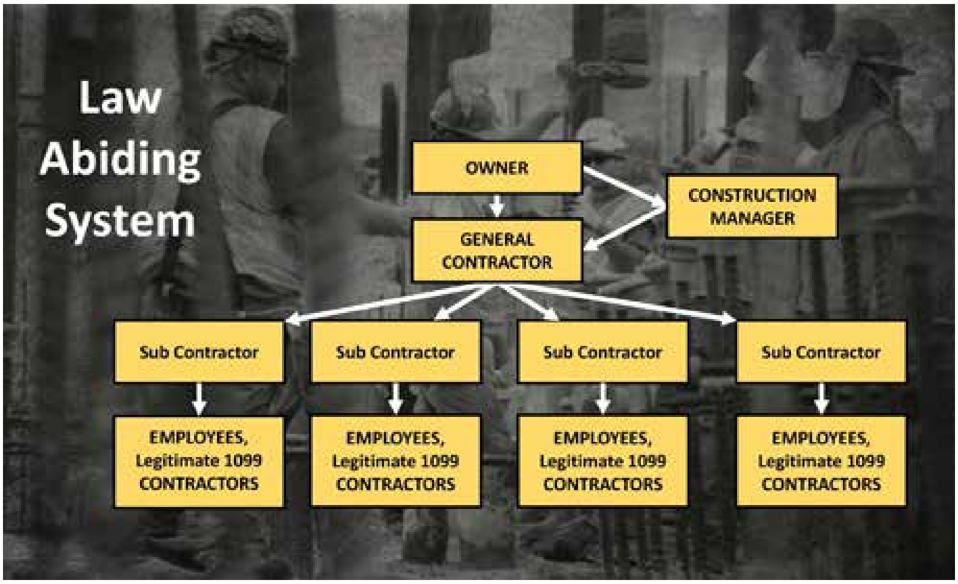
PA's Senate Labor and Industry Committee is looking at how the law might be strengthened. The Pittsburgh task force testified before the Senate committee in July 2021. The issue is one of those being pushed by the General Contractors' Association of Pennsylvania (GCAP), which is working with legislators to craft language for a worker misclassification law. GCAP has offered similar statutes from three states – two red, one blue – as models that could be adopted in PA.

In Montana, independent contractors differ from employees in three key ways:

1. They have an Independent Contractor Exemption Certificate (ICEC) issued by the state Department of Labor and Insurance or have purchased workers' compensation insurance

2. They are free from control or direction from the businesses hiring them for their services

3. They are engaged in their own independently established business, occupation, trade, or profession



Source: Joint Task Force on Construction Industry Fraud

To combat misclassification of workers in Iowa, the state established the Iowa Worker Misclassification Unit to investigate complaints of illegally classified independent contractors and undocumented payments. Like in Montana, Iowa targets employers for enforcement and penalties and focuses on who controls and directs the workers to determine the level of independence.

Oregon passed more aggressive misclassification laws in 2009 and takes a limited view of independent contractors. The state assumes all workers are employees if they receive remuneration for services provided unless the Director of Employment Department is satisfied that the conditions for independent status are met. Those conditions require that the individual employed is "free from direction and control over the means and manner of providing the services, subject only to the right of the employing unit to specify the desired results; and is customarily engaged in an independently established business."

In states where underground construction is being combatted effectively, enforcement targets the employer. Workers who feel the need to be off the grid are unlikely to complain about work conditions, including being underpaid, which is a common occurrence in the underground market. Ensuring that whistleblowers are not targeted for other enforcement purposes – like unpaid back taxes – will encourage a few workers to come forward. From that point on, penalties that make the employer think twice about pursuing off-the-books labor solutions will reduce the incidence rate. Similar approaches have been effective at reducing the hiring of undocumented immigrants.

Efforts targeting project owners and general contractors have proven to be less effective. Requiring subcontractors to be licensed – a solution that the Joint Task Force on Construction Industry Fraud has recommended – will make it difficult for illegitimate labor brokers to bid and win work as a subcontractor. But the arm's length contractual relationship between general contractors and subcontractors – and their subcontractors – is a difficult barrier to authorities trying to exert pressure on labor brokers downstream from the agreements.

Likewise, project owners are a step further back from those construction labor transactions. In today's marketplace, owners are far more concerned about how the construction team plans to adequately staff the project. Many lack the wherewithal to police the sources of the workforce.

"We hire general contractors that are responsible for their labor force. Are there some trades on which there are issues? Maybe, but I have had no experience with that on Oxford projects," says Michael Barnard, vice president of development for Oxford Development Co.

"The people that oversee construction for Elmhurst work with general contractors on a more open book basis. We know what subs are going to be on our projects," say Bill Hunt, CEO of The Elmhurst Group. "We want to go with the most cost-efficient subcontractors, but we can see if a subcontractor is unknown to us coming from some other part of the country."

The relatively high share of union labor in Pittsburgh has been a buffer against the underground construction market's advances. Union membership puts a worker on the payroll map. As a practical matter, the local unions have been active in raising awareness of the issue, but it is a problem that drags the entire industry backwards.

"This is low-hanging fruit. All you have to do is enforce the laws that are already on the books says Mazza. "This is not an increase in taxes. This is collecting revenues that are already due. It takes money from local government that could be used for paving roads and repairing bridges. It's money that could be contributed to pension funds, Social Security, and Medicare but is not being paid."

"This is an industry problem. We understand there are going to be jobs that go open shop. We know that we are not going to win every job, but if things like this are going on it's bad for everyone," says Niecgorski. "We want the building to be built right. We want the workers classified correctly so that the tax is collected properly. If not, it's bad for the city. It's bad for the industry. It's bad for legitimate contractors, whether they are union or not." BG

WHY CONTRACTORS NEED TO UNDERSTAND EMBODIED CARBON

BY PAUL TROMBITAS AND PAUL GIOVANNONI

Carbon accounting isn't required on all projects yet, but there are major incentives for early adopters.

The exact language being hammered out at the United Nations climate summit in Glasgow, Scotland, in late 2021 was a topic of debate, but the shared goal was clear: Halve emissions by the year 2030 and set the U.S. on a path toward decarbonization of the economy.

Construction will play a large part in helping reach these goals. Buildings make 40 percent of total U.S. energy consumption with 29 percent attributed to building energy use. But this expenditure is a measure of what is called operational carbon — the energy used in heating, cooling, and powering buildings.

Add in embodied carbon — the emissions from materials extraction, production and transport; disposal of old structures; construction equipment and activity; and maintenance over the life cycle of the structure — and buildings actually account for around 50 percent of U.S. emissions.

That means the projects we build today will account for part of our 2050 carbon budget. In February, President Joe Biden announced a task force to promote the use of construction materials with lower emissions as it works to achieve net-zero emissions by 2050. With the government accounting for $650 billion a year in goods and services purchases, that represents significant purchasing power.

While climate deadlines might seem far off, some contractors are prioritizing carbon mitigation in their materials, processes and technology, which experts say can provide cost-saving measures and create a crucial competitive advantage.

Engineers, designers, and contractors are particularly crucial to decarbonization because they touch so many phases of the design and construction life cycle, from sourcing materials to design, preconstruction, construction, and maintenance, and communicate to owners and subcontractors, making them a conduit for change as well.

In the years ahead, "owners will look for firms that have experience with low-carbon projects, particularly when utilizing best value selection that places an emphasis on sustainability factors," says Jacob Arlein, chief executive officer at Stok, an environmental company. "Environment, sustainability, and governance (ESG) criteria and requirements are growing. It is coming from investors. You'll see an increase with publicly traded companies conducting carbon footprint assessments. That will be a huge change. This will start with transparency, carbon reporting, then mandated reductions that will impact the carbon emissions of new projects."

That's what lies ahead, but there is plenty of evidence that this transition is already in action..

The Carbon Revolution Is Here

The World Green Building Council predicts that as the global population reaches 10 billion around 2050, the building stock will need to double. This implies a huge increase in consumption of carbon-intensive materials and the need for improved building practices.

For example, cement usage could grow between 12 percent and 23 percent by 2050, and steel could increase by a third. The International Energy Agency estimates that production of cement alone accounted for 7 percent of global carbon emissions in 2019.

That means designers and builders will need to look for alternative materials or work with producers who can accurately show they are working to curb emissions. The Energy Transitions Commission expects recycled secondary steel to outpace primary production in the years ahead and has laid out a plan to reduce cement emissions by a quarter by 2050.

"The decarbonization economy is growing rapidly and expanding across almost all sectors of raw materials globally from agriculture to mining," says Shelley Goldberg, a commodities expert and founder of Invest-with-Purpose, an environmental sustainability consultancy. She points to companies like BHP, which completed the first carbon-neutral copper transaction from its mines in Chile together with Southwire's processing plant in the U.S., thanks to blockchain-based supply chain traceability and carbon offsets.

For now, carbon capture has not put pressure on commodity futures prices, suggesting that carbon- neutral initiatives will more than pay off over the medium term to long term, especially with the potential for a global crunch on energy in the future. "Nevertheless," says Goldberg, "I predict that China's decarbonization may put upward pressure on commodity prices."

"If you have a history or a role in the design and construction space, you understand how buildings are designed, how they're built, how things go together and the process for that. And this is just adding the layers to that process,"

-- Stacy Smedley, director of sustainability at Skanska USA Building.

Consumption regulations are still loose in many countries, but demand for net-zero buildings is growing, driven by anticipation of stricter regulations and the adoption of pledges by private enterprises. The net-zero building market

is predicted to reach $140.2 billion by 2028, according to research by Polaris Market Research.

RMI, an energy policy think tank, has outlined several key benefits to reducing embodied carbon, including lowering project costs and decreasing materials use and energy consumption. With many building owners pushing their contractors to account for carbon emissions throughout the construction process, understanding best practices for sourcing, what questions to ask and how to quantify embodied carbon will be a skill set for successful construction managers.

Stepping Up as Contractors

As environmental product declarations and life cycle assessments continue to saturate the industry, there is a huge opportunity for contractors and engineers to develop competencies in carbon accounting.

As an architect, Smedley created the Embodied Carbon in Construction Calculator, or EC3, an open resource available through Building Transparency, where she is executive director. Already she notes that private multinationals and city and state governments are implementing incentives for carbon accounting measures.

"The messages that suppliers are getting from Microsoft, Salesforce or Amazon are the same requirements and disclosures that they will see from a federal or state policy, which is good," Smedley says.

For example, Microsoft requires all vendors to perform environmental reporting, and New York passed rules that provide bid discounts to contractors who can procure low-embodied carbon concrete. These practices, and the data they provide, will saturate states where these requirements exist first, says Smedley.

"You have these pockets of good data," according to Smedley. "But there are big swaths of the country with lots of smaller suppliers that are engaging in this [even though] no one's asking them to and it's that larger lift."

At this stage, companies need to put in place dedicated staff who can perform environmental product declarations and life cycle assessments, estimating things such as the carbon required to transport materials from a vendor in the country or one overseas.

"There is a steep learning curve, but an investment in sustainability experts will pay off," says Smedley. "[There is an] urgent hiring explosion in these groups of sustainability professionals to really understand how to start that process."

Developer Hines is also generating strategies for managing embodied carbon. It has created an internal guide on embodied carbon to begin educating employees on what's coming and how to manage it. It is also asking others to monitor embodied carbon and environmental protections on new projects.

Understanding how to manage embodied carbon begins during preconstruction with sourcing better materials. This includes:

- Concrete: The carbon cost of concrete can be reduced by seeking increased energy efficiency, alternative fuels, reduced clinker content (i.e., fly ash, slag or calcined clays), alternate binding materials and carbon capture technology. Concrete has a role to play in energy efficiency of buildings, lending itself to geothermal design, for example.
- Steel: Mitigation measures include better scrap recycling, using rebar with a high portion of recycled content, using the high-powered gas leaving the furnace during manufacturing to power other machines, choosing coke dry quenching over water quenching when retrieving materials from the furnace, or considering alternate materials like wood to build structures.
- Copper: Recycled copper takes 80 percent less energy to produce than raw copper from mining. The European Copper Institute estimates that solar thermal technology and energy management in buildings could save 700 million tons of carbon emissions a year.
- Insulation: Low-or no-embodied carbon products can replace traditional insulation materials like foam.
- Cladding and finish materials: Products like aluminum and vinyl are more carbon-intensive than functional alternatives like wood and are often chosen for aesthetics. Lower-embodied carbon paint and glazing options are available on the market.
- Wood and other natural materials: Timber, bamboo and other forms of biomass can absorb and store carbon over a building's life cycle. These are an attractive alternative to carbon-intensive materials like steel and even glass in the case of engineered transparent wood. Growth and harvesting of timber is also a form of sequestration and can offset emissions.

Contractor relationships with materials producers can be key not only in facilitating a transition to less carbon-intensive buildings but also in finding ways to define that value. After working together on eight sustainable timber buildings around the world, multinational real estate group Lendlease recently announced a partnership with Stora Enso, an Italian supplier of sustainable timber, on a timber studio in Milan that will perform research and development and service Lendlease's $52 billion slate of European development projects.

"Timber is already experiencing a surge in demand and is a material we should focus on when it comes to utilizing low-embodied carbon material," says Arlein.

How Contractors Can Lead the Way in the Years Ahead

Contractors touch almost every phase of a project. This puts them in the position of gatekeeper for environmental disclosures and reporting on products and designs. Their early involvement also allows them to put in place specific low-carbon or carbon-positive procurement requirements when dealing with trade contractors.

Contractors will also be at the forefront of working with subcontractors to quantify and trace embodied carbon. It's important to include subcontractors in the conversations about systems being put in place as well as talking directly with clients to address their questions around embodied carbon.

Key questions contractors should consider as the emphasis on decarbonization efforts continues:

- Do we have anyone with expertise in embodied carbon?
- What resources do we need to start tracking carbon emissions in our building processes?
- Do we consider carbon emissions in the design or product selection phases?
- How can we work with our subcontractors on embodied carbon tracking?
- What level of investment can we make now to get ahead of future requirements?

The ways we account for embodied carbon may change in the years ahead, but contractors need to learn how to operate in a decarbonized economy. These measures require not immediate expertise in the field, but a willingness to learn.

Those who invest now in understanding embodied carbon and making changes to how they work with suppliers and subcontractors will reap the rewards long-term by being able to capture more business. BG

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INDUSTRY & COMMUNITY NEWS

(From left) Mike Clista from Clista Electric, Turner Construction's Abby Krehl, Naley McKamish from McKamish Inc., and Turner's Adam Hinds at the Young Constructors Golf Outing at Olde Stonewall on May 16.

(From left) Tom Mulholland with Insulators Local #2, IBEW's Larry Nelson, Joe Spanik consultant for Beaver Building Trades, and Steve Olash from the Painters and Allied Trades.

(From left) PJ Dick's Selma Voljevica and Lauren Kubeja, Brooke Waterkotte from Easley & Rivers, and Dom Matarazzo from PJ Dick.

(From left) Ed Kremmel, Ryan Deatrick, and Joe Bruce from Schneider Downs, Rob Serenyi from Nicholson Construction.

(From left) Kevin Shaffer from Rycon Construction, Kinsey Becker and Mike Balistreri from Oxford Development, and Rycon's Nick Schafer.

(From left) Tim Mackin and Mary Chuderewicz from the MBA, Burchick Construction's Dave Meuschke, and MBA Executive Director Dave Daquelente at the ASA's networking event at Rivers Casino. Photo by Sandra Vacca.

(From left) Zak Roberts from A. Martini & Co, PJ Dick's Selma Voljevica, Brian Budny, and Josh Matthews, and Marsa's David Neuhaus.

(From left) Ethan Yohe, intern at Easley & Rivers, Reed Building Supply's Aaron Reed, and ASA Board President Rich Yohe, from Easley & Rivers. Photo by Sandra Vacca.

(From left) Sonia Holman from United Rentals with Amanda Martin, Yarua Milano, and Kayla Moyer from Easley & Rivers. Photo by Sandra Vacca.

(From left) Mark Edgar, Brandon Rupert, and Sam Reihs from Mosites Construction. Photo by Sandra Vacca.

Buncher's Glen Puhalla, with John Fox and Kathy Fox from Carl Walker Construction at the 29th NAIOP Awards.

(From left) Peter Hamilton, Alex Masters, Chris DeLorenzo, and Brian Peglowski from Turner Construction.

Gary Lotz from Dick Building Co. (left) with Brandon Mendoza, executive director of NAIOP Pittsburgh.

(From left) Bob Cornell from PA Commercial, MBA's Dave Daquelente, and Matt Jameson from Burns White at the June 6 NAIOP golf outing.

(From left) Turner Construction's Chris DiLorenzo, Matt Polechko from Shorenstein Properties, Turner's Adam Hinds, and Sean Myers.

As a part of providing a healthy environment for others, a few Mascaro employees volunteered with PUMP's Pittsburgh Sports League to clean up Fowler Field on the North Side. Pictured from left are Casey Mrazik, Corey Watts, Shawna Crow.

Mascaro received the 2022 Engaging Pittsburgh Award from the PHRA in the Learning and Professional Development Category for our "Build It Right" program. Pictured from left are John C. Mascaro, Jr., Sung Yi, Scott Metzger, Jamie Gildersleeve, John A. Mascaro, and Deb Saus.

(From left) A.M. Higley's Michael Larson-Edwards, Skylar Van Soest, and Colin Gibbons participated in the 5K Fun Run/Walk to benefit the Fund for Advancement of Minorities through Education.

AWARDS & CONTRACTS

Independence Excavating Inc. was awarded the Building Excavation, Building Demolition and Site Utility Packages for the new UPMC Presbyterian Bed Tower.

Independence Plumbing was awarded the plumbing contract for the Pittsburgh International Airport Cargo 4 Expansion Project.

Independence Excavating Inc. was awarded the Site Work and Selective Demolition Package for the expansion to the Fedex facility in Gibsonia PA.

Burchick Construction has been awarded a $1.2 million renovation project for Pocket Nurse in Monaca, PA. The scope of work includes both interior and exterior renovations. Pocket Nurse is a vendor for miscellaneous nursing and medical supplies.

Massaro CM Services is the construction manager for the $7 million alterations and second floor addition to the Penn Hills Charter School for Entrepreneurship in Swissvale. The architect is LGA Partners.

Highwoods Properties awarded a contract to **Massaro Corporation** to perform major renovations to the lobby at its EQT Building at 625 Liberty Avenue. The architect is Strada Architecture LLC.

Massaro Corporation was selected as general contractor for the $18 million expansion and renovation of the St. Paul Center in Steubenville, OH. The architect is AMDG Architects.

United Hospital awarded **Massaro Corporation** a contract for the pharmacy at its Clarksburg facility. Gresham Smith is the architect for the $1.6 million renovation.

The Ellis School awarded a contract to **Jendoco Construction Corp.** for classroom renovations at its Fifth Avenue facility. PWWG Architects is the architect.

Carl Walker Construction was awarded a $25 million design-build contract for a new 800-car precast concrete parking garage in Branchburg, NJ. The architect is Desman.

The Pittsburgh Parking Authority awarded **Carl Walker Construction** a contract for the $5 million Forbes Semple Garage repairs in Oakland. Desman is the architect.

TEDCO Construction is renovating the 37th floor of One BNY | Mellon Centre for BNY | Mellon's financial operations. The architect is DRS Architects.

Shannon Construction is the general contractor for the tenant improvements for ECS Mid-Atlantic in Cranberry Business Park. The architect is NEXT Architecture.

Rocky Bleier Construction Group was awarded a contract for the building construction package for FedEx Freight Terminal expansion in Gibsonia, Richland Township. The architect for the 22,000 square foot addition is Bill Thomas Architect.

Mascaro was awarded the contract to demolish existing foundations and install new concrete foundations, ramps, and curbing for units U1-U2 at AEP WWTP.

The contract for site development for the DLC Watson Substation was also awarded to **Mascaro**.

Carnegie Mellon University selected **PJ Dick/Mascaro** joint venture as construction manager for its new $200 million R. K. Mellon Science Building.

Allegheny Health Network awarded a contract to **AIMS Construction** for the AHN Canonsburg Hospital Boiler Replacement in North Strabane Township. The $500,000 project was designed by Karpinski Engineers.

AIMS Construction is the construction manager for the AHN Allegheny Valley Hospital Water Heaters in Natrona Heights. The engineer is McKim & Creed.

Family Links awarded a $1,600,000 contract to **AIMS Construction** for its Women's Home in Mercer County, PA. The architect is The Design Group.

AIMS Construction was selected by UPMC for renovations to Biomedical Science Tower West Suite 1313.

Rycon's Special Projects Group will soon begin upgrades to the 1,300 square foot Lovesac at Ross Park Mall.

Rycon's Special Projects Group was recently awarded a contract to renovate the pedestrian bridge spanning between Presbyterian and Montefiore Hospitals.

Repeat client U-Haul International awarded **Rycon** two U-Box projects totaling $4.2 million to build two new warehouses in Jacksonville and Panama City, FL.

In Brentwood, TN, Rycon will be performing a $3.4 million fit-out of an 80,000 square foot Floor & Décor store.

Work is underway by Rycon for CBRE on two HomeGoods locations in Virginia, Suffolk and Glen Allen.

In Jackson, MI **Rycon** will continue improvements at Jackson Crossing Redevelopment. Upcoming work includes a new outparcel building and landlord improvements totaling $2.1 million.

With the award of Countyline Corporate Park Buildings 39 – 41, **Rycon** has officially served on $300 million of work located northwest of Miami, FL.

Rycon is responsible for constructing a new $2.2 million, 10,000 square foot medical office in Winter Haven, FL.

In Houston TX, **Rycon** was awarded a 11,200 square foot fit-out of PickUp USA Fitness.

In Paulsboro, NJ, **Rycon** was awarded a design-build contract to construct a 42,000 square foot, 65-foot high, one-story industrial coating building.

Tilt Holdings/J2H Partners are the Owners, T-Arch Studio is the architect, and **Rycon** is the general contractor responsible for the new 7,000 square foot Shinnecock Leaf Cannabis Dispensary in South Hampton, NY.

Repeat client Chick-fil-A awarded **Rycon** a $3.5 million project to build a new location in Philadelphia, PA.

Rycon was awarded a 10th floor corridor renovation at The Offices at Pike & Rose in North Bethesda, MD.

Landau Building Company will be performing the window, roof, and HVAC replacement at Sewickley Public Library. Funded by several grants, the "Building Preservation Project" will replace the nearly 100-year-old original Spanish tile roof, several original fan-shaped windows, and the HVAC system for the entire building. NEXT Architecture is the design professional.

Landau Building Company will be overseeing the ISD Infrastructure Upgrades at UPMC McKeesport Hospital as construction manager. DesignGroup is the architect.

Work has begun on the UPMC Magee Hillman Cancer Center PET-CT Replacement project located on the first floor of UPMC Hillman Cancer Center in Pittsburgh, PA. The scope includes a new scan room, control room and other areas related to the PET-CT. The 12-month project will be completed at night and is phased to keep the imaging department in operation. Awarded earlier this year, **Landau Building Company** is the construction manager and RM Creative is the architect.

Volpatt Construction is managing the second-floor renovation of the Stewart Science Center at Waynesburg University. The current phase is part of a $25 million complete renovation of the building. The architect is DRAW Collective.

Turner Construction Co. has been selected as contractor for the Penn State University, New Kensington, Student Union Building. The project involves addition and renovations totaling 20,000 square feet. DIGSAU is the architect.

Turner Construction Co. was awarded a contract for the tenant improvements for Apple at The Assembly. The 73,000 square foot buildout includes office and lab space. G. Alvarez Studio Inc. is the architect.

Sewickley Academy selected **Turner Construction Co.** to manage multiple interior renovation projects to the Oliver Building.

Spartan Construction Services was the low general construction bidder on the $7.2 million Hiller Readiness Center Rehabilitation, a PA Department of General Services facility in Luzerne Township, Fayette County. The architect is Rios Williams Architect.

PJ Dick is converting the former Nuclear Medicine space at UPMC East to a pre-procedure care space. The 3,270-square foot renovation will take six months and includes one new procedure room and 12 new patient bed spaces.

The Whiting Turner-**PJ Dick** Joint Venture is managing construction of a new 17-story, 900,000 square foot, 636-bed patient tower at UPMC Presbyterian Hospital in Oakland. This marks the largest project in PJ Dick's 40-year history. The facility is scheduled to open in the summer of 2026.

PJ Dick's Self-Perform Group (SPG2) was awarded the concrete package consisting of foundations, slabs, and site concrete of The Park at SouthSide Works, a new 350,000 square foot, 247-unit apartment building in Pittsburgh's South Side neighborhood.

PJ Dick's Special Projects Group (SPG) is managing the renovation and fit out of Jeni's Ice Cream, a new ice cream servery in Bakery Square. The renovation includes 1,600 square feet of existing tenant space for new restrooms, retail, food service, and food preparation areas. The project is currently anticipating a completion date of August 2022.

JLL selected **A. Martini & Co.** to renovate the 14th floor of its space at Tower 260 in downtown Pittsburgh. The architect is DLA+ Architects.

Big Burrito Restaurant Group awarded a contract to **A. Martini & Co.** to build out its new Alta Via restaurant location at 2 PPG Place in Market Square. Rothschild Doyno Collaborative is designing the 8,100 square foot fit-out.

A. Martini & Co. will start work in August on an art gallery for the Tomayko Foundation on Liberty Avenue in the Bloomfield neighborhood of Pittsburgh. DLA+ Architecture & Interior Design is the architect for the renovation and 1,000 square foot addition.

FACES & NEW PLACES

AMHigley welcomed **Jonathan Mikulla** to its Pittsburgh office as superintendent. Jonathan brings 10 years of construction experience as a carpenter and superintendent to Higley.

Joe David joined **AMHigley's** team as a superintendent in its Pittsburgh office. In addition to his 15+-plus years of experience in construction, Joe is a former U.S. Marine Sergeant and honor graduate of the Marine Corps Leadership School.

Holly Andrews has joined **AMHigley's** Pittsburgh office as project accountant. Holly brings more than 20 years of industry experience and accounting expertise to the Higley team.

AMHigley welcomed **Tom Owens** as senior superintendent in May, adding more than 25 years of superintendent experience to Higley's Pittsburgh office. Tom will lead AMHigley's team of self-perform carpenters and oversee field operations for its Customer Service Group.

Ryan Haught has joined **AMHigley** as senior project manager in its Pittsburgh office. Ryan brings over 20 years of project management experience.

Shane Oliver joined **Mascaro** as an health safety and environment manager on April 18 to support the Shell Cracker Plant project in Monaca.

On May 23, **Nathan Polk** joined **Mascaro** as a project engineer for buildings estimating. He will graduate from The University of Pittsburgh this summer with a Bachelor of Science in Civil Engineering.

Alex Nine was recently hired by **Mosites Construction Co.** as a project engineer. Nine graduated from Penn State University with a degree in mechanical engineering and earned a Master's in Business Administration from Duquesne University.

The **Rycon** Pittsburgh office is pleased to welcome **Madison Blazer** as marketing coordinator.

Sarah Bodnar joins **Rycon's** Pittsburgh office as junior staff accountant.

Rycon's Pittsburgh Building Group hired **Nathaniel Bradley** as project engineer assistant.

Rycon Pittsburgh Service Division welcomes **Joseph Dietz** as project lead.

Hannah Lawrence, alumna of Kent State University, joins **Rycon's** Pittsburgh Service Division as a billing coordinator.

Rycon's Pittsburgh Special Projects Group is pleased to welcome back **Brad Ridgeway** as senior project manager.

Rycon's Pittsburgh IT department welcomes **Craig Simon** as IT business analyst.

Rycon's Casework & Millwork Division hired **Dean Talmonti** and Ronald Williams as drafts people.

Rycon's Washington, DC office welcomes **Kayli Ahern** as preconstruction coordinator.

With over 30 years' experience, **Bryan Baswell** joins **Rycon's** Fort Lauderdale office as senior estimator.

Rycon welcomes **Matt Cramer** as assistant project manager in the Philadelphia office.

Rycon's Washington, DC office added **Lisa Creedon** as assistant project manager.

With over 30 years' experience, **Edward Dougherty** joins the **Rycon** Atlanta office as project manager.

Rycon's Fort Myers office welcomes **Chris Fitzi** as office manager.

With 20 years' experience, **Julie Flores** has been added to **Rycon's** Fort Myers office as project manager.

Brent Hinden has been hired in **Rycon's** Washington, DC office as project engineer.

Rycon's Atlanta office welcomes **Jordan Novotny** as assistant project manager.

Mario Rini joins **Rycon's** Cleveland office as senior project manager.

Andy Ryder joins **Rycon's** Fort Lauderdale office as project manager with over 24 years' experience.

Rycon's Fort Lauderdale office welcomes **Miguel Salazar** as construction accountant.

Landon Miles joins **Rycon's** Atlanta office as assistant project manager with 14 years' experience.

In **Rycon's** Washington, DC office, **Ray White** has been hired as project manager.

Rycon's Atlanta office hired **Terry Williams** as project manager.

Brandon Zekis, alumnus of Drexel University, joins **Rycon's** Fort Myers office as project manager.

Mike Uzarski joined **Massaro Construction Management** Services as site manager.

Dan Dougherty joined **Massaro Corporation** as project manager.

Massaro Construction Group hired **Gemma Fotia** as accounts payable specialist.

Massaro Corporation hired **Rob Trettel** to be senior preconstruction manager,

Massaro Corporation hired **Dean West** as project engineer.

Bobby Sullivan joined **Massaro Corporation** as project engineer.

Toni Warhola joined **Massaro Corporation** as project engineer in Massaro's Erie, PA office.

Alex Lippai joined **Turner Construction's** Pittsburgh office as project engineer. Lippai recently transferred from Turner's Seattle office after three years.

Laleh Gharanjik was hired by **Turner Construction** to be a project manager in its Interiors Group.

Mike Massey joined **Turner Construction** as a project manager in the Interiors Group. Massey bring more than seven years in the construction industry.

Ryan Palladino joined **Turner Construction Co.** as an assistant accountant.

PJ Dick Mid-Atlantic welcomes **Joe Krause** as a new project superintendent. Joe is a certified Residential Construction Specialist and has 35 years of experience in the construction industry.

Jason Haladay joins **PJ Dick** as an assistant project manager working at UPMC Williamsport Hospital. Jason graduated with a bachelor's degree in construction management and is certified in E&S and Intermediate Traffic Control in Virginia.

PJ Dick welcomes **Luis Mujica** as a project engineer working on the ALCOSAN East Headworks project. He holds a BS in civil engineering from Point Park University.

PJ Dick hired **Sophia Melocchi** as an estimator responsible for scope analysis and subcontractor communication. She holds a BS in civil engineering from The Pennsylvania State University. Previously, she worked as an intern for PJ Dick at the Posner Hall renovation project at Carnegie Mellon University.

Ernest Sciulli started as a project engineer working with **PJ Dick's** Self-Perform Group (SPG2) on ALCOSAN East Headworks and The Julian projects. He previously interned for PJ Dick at the Liberty East job site. He holds a BS in construction management from Drexel University.

Emily Brown joined **PJ Dick** as a project engineer working on the University of Pittsburgh Scaife Hall addition and renovation. She graduated from Kent State University with a BS in construction management and is an accredited LEED Green Associate.

PJ Dick Mid-Atlantic welcomes **Vincent Meinart** as a project engineer working on the Cathedral Village Phase III Project. He recently graduated from The Pennsylvania State University with both a bachelor's and master's degree in architectural engineering.

PJ Dick Mid-Atlantic welcomes **Gavin McKelvey** as a project engineer in strategic planning and estimating. Gavin attended Williamson College of The Trades.

PJ Dick welcomes the following summer interns: **Travis Adams, Bertha Akagbue, Matthew Barber, Dylan Carlson, Alex Gramc, Logan Gray, Hunter Kaplin, Alayna Powell, Israel Reed, Jacob Swinderman, Ryan Vaz, and Andrew Woomer.**

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Volpatt Construction Corporation

Vice President and Treasurer
Michael R. Mascaro
Mascaro Construction Company, LP

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Burchick Construction Company, Inc.
Caliber Contracting Services, Inc.
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FMS Construction Company
Fred L. Burns, Inc.
Independence Excavating, Inc.
Jendoco Construction Corporation
Kokosing Industrial Incorporated
Landau Building Company
Mascaro Construction Company, LP
Massaro Corporation
McCrossin
Menard USA
Mosites Construction Company
Nello Construction Company
Nicholson Construction Company
PJ Dick Incorporated
Rocky Bleier Construction Group
Rycon Construction, Inc.
Shannon Construction Company
Spartan Construction Services, Inc.
Stevens Engineers & Constructors, Inc.
TEDCO Construction Corporation
Turner Construction Company
Uhl Construction Company
Volpatt Construction Corporation

SPECIALTY CONTRACTORS

A Crane Rental, LLC
A. Folino Construction, Inc.
A. J. Vater & Company, Inc.
A.C. Dellovade, Inc.
ABMECH Acquisitions, LLC
ACE Lightning Protection Inc.
Advantage Steel & Construction, LLC
All Crane Rental of Pennsylvania, LLC
Alliance Drywall Interiors, Inc.
Amelie Construction & Supply, LLC
Amthor Steel, Inc.
Brayman Construction Corporation
Bristol Environmental, Inc.
Bruce-Merrilees Electric Co.
Bryan Construction, Inc.
Burke & Company, LLC dba S.P. McCarl & Company
Century Steel Erectors Co., LP
Clista Electric, Inc.
Cost Company
Costa Contracting, Inc.
Cuddy Roofing Company, Inc.
D-M Products, Inc.
Donley's Concrete Group
Douglass Pile Company, Inc.
Easley & Rivers, Inc.
East Coast Metal Systems, Inc.
EMCOR Services Scalise Industries
Fay, An i+iconUSA Company
Ferry Electric Company
Flooring Contractors of Pittsburgh
Franco Associates
G. Kidd, Inc.
Gaven Industries, Inc.
Giffin Interior & Fixture, Inc.
G.O. Services, LLC
Gregori Construction, Inc.
Gunning, Inc.
Geo. V. Hamilton, Inc.
Hanlon Electric Company
Harris Masonry, Inc.
Hatzel & Buehler, Inc.
HOFF Enterprises, Inc.
Howard Concrete Pumping, Inc.
Hunt Valley Environmental, LLC
J.J. Morris & Sons, Inc.
JLJI Enterprises, Inc.
Kalkreuth Roofing & Sheet Metal, Inc.
KELLER North America
Keystone Electrical Systems, Inc.
Kirby Electric, Inc.
Kusler Masonry, Inc.
L & E Concrete Pumping Inc.
Lighthouse Electric Company, Inc.
Limbach Company, LLC
Lisanti Painting Company
Marsa, Inc.
Massaro Industries, Inc.
Master Woodcraft Corporation
Matcon Diamond, Inc.
Maxim Crane Works, LP
McCrossin Foundations, LLC
McKamish, Inc.
Mele & Mele & Sons, Inc.
NAES Power Contractors
Nathan Contracting LP
Noralco Corporation
Paramount Flooring Associates, Inc.
Phoenix Roofing, Inc.
Pittsburgh Interior Systems, Inc.
Precision Environmental Company
RAM Acoustical Corporation
Redstone Flooring, LLC
Renick Brothers Construction Co.
Richard Goettle, Inc.
Right Electric, Inc.
Ruthrauff | Sauer, LLC
Saint's Painting Company, Inc.
Sargent Electric Company
Schindler Elevator
Schlaegle Design Build Associates, Inc.
Schnabel Foundation Company
Specified Systems, Inc.
Spectrum Environmental, Inc.
SSM Industries, Inc.
Swank Construction Company, LLC
T.D. Patrinos Painting & Contracting Company
Tri-State Flooring, Inc.
W.G. Tomko, Inc.
W.O. Grubb Steel Erection, Inc.
Wayne Crouse, Inc.
WGM Contractors, LLC
William. A. Fischer Carpet Company
Wright Commercial Floors
Wyatt, Incorporated

AFFILIATE MEMBERS

4CTechnologies
84 Lumber
ADMAR Construction Equipment and Supply
AE Works Ltd.
AEC Online Store LLC
African American Chamber of Commerce of Western PA
AHN Construction & Design
Allegheny County Airport Authority–Pittsburgh International Airport
Alliant
American Contractors Insurance Group
Amerisafe Group
AmeriServ Trust and Financial Services Company
A. R. Chambers and Son, Inc.
Atlantic Engineering Services
Atlas Marketing
Atlas Wholesale Co., Inc.
AUROS Group
Babst | Calland
Baker Tilly Virchow Krause, LLP
BDO USA, LLP
Black Diamond Equipment Rental
Bowles Rice
Bronder & Company, P.C.
Buchanan Ingersoll and Rooney, P.C.
Building Point Ohio Valley
Burns & Scalo Real Estate Services, Inc.
Burns White, LLC
Cadnetics, Inc.
Case|Sabatini
CENTRIA
Chartwell Investment Partners
Chubb Group of Insurance Companies
Civil & Environmental Consultants, Inc.
Clark Hill PLC
Cleveland Brothers Equipment Co., Inc.
CliftonLarsonAllen LLP
Cohen, Seglias, Pallas, Greenhall & Furman PC
Colliers Engineering & Design
Computer Fellows, Inc.
Cozen O'Connor
Crawford Consulting Services, Inc.
Dentons Cohen & Grigsby P.C.
DesignGroup
Dickie, McCamey & Chilcote, P.C.
Dingess, Foster, Luciana, Davidson & Chleboski, LLP
Dollar Bank
DRAW Collective Architecture
DRS Architects
Eckert Seamans Cherin & Mellott
ECS Mid Atlantic, LLC
EPIC Insurance Brokers & Consultants
FDR Safety, LLC
First National Insurance Agency
Frost Brown Todd, LLC
Gallaway Safety & Supply
The Gateway Engineers, Inc.
Graystone Consulting Pittsburgh Cleveland
Green Dot Active Solutions, Inc.
A.L. Harding & Company
The Hartford Surety
Henderson Brothers, Inc.
Henry Rossi & Co., LLP
HHSDR Architects/Engineers
Highway Equipment Company
Hillis Carnes Engineering Associates, Inc.
Huth Technologies LLC
Intertek - PSI
J. S. Held
Karpinski Engineering
LaFace & McGovern Associates, Inc.
Langan Engineering & Environmental Services
Liberty Insurance Agency
Liberty Mutual Surety
Lytle EAP Partners/Lytle Testing Services, Inc.
Maiello, Brungo & Maiello
Marthinsen & Salvitti Insurance Group
McKim & Creed, Inc.
McNees Wallace & Nurick, LLC
Metz Lewis Brodman Must O'Keefe LLC
Meyer Unkovic & Scott, LLP
Meyers Company
Michael Baker International
Milwaukee Tool
Mobile Air, Inc.
Mobile Medical Corporation
MSA Safety
Multivista
NCI - Nursing Corps
New Millennium Building Systems
Ohio Valley Drywall Supply
Old Republic Surety Company
Philadelphia Insurance Companies
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
Pittsburgh Mobile Concrete, Inc.
Providence Engineering Corporation
R.J. Bridges Corporation
Republic Services, Inc.
Rimkus Consulting Group, Inc.
Schneider Downs & Company, Inc.
Scotti Law Group
Seubert & Associates, Inc.
The Sherwin-Williams Co.
Stanley Black & Decker
Steptoe & Johnson PLLC
Suburban Propane
Tarax Service Systems, Inc.
Tom Brown, Inc.
Travelers Bond & Financial Products
Tucker Arensberg, P.C.
UBS Financial Services / The Sofranko Group
UPMC Work Partners
U.S. Film Crew
USI Insurance Services
Werner Co
Willis of Pennsylvania, Inc.
WNA Engineering, Inc.
Zilka and Associates, Inc. Architects
Zurich NA Construction

CLOSING OUT

"MAKE YOUR VOICE HEARD – BECOME A CONSTRUCTION ADVOCATE"
BY CLIFFORD ROWE

Advocacy for our industry can take many forms and means more than just raising dollars for political action, and special interests. It's about safer job sites, fairer contract terms, beneficial legislation, good wages, and skilled labor. It's also about less tangibles like integrity, ethics, pride, taking risk, completing complicated projects, and giving back to the community. We are a $1.8 trillion business nationwide, and the backbone of the US economy. There isn't a borough, city or state not impacted by the health of the construction industry.

Coalitions can often form around issues – sides are taken. Management, labor, owners, and design professionals aren't always going to agree – after all it's human nature to look out for yourself first. Negotiations become important, and more often than not we reach agreement for the greater good of the industry.

Here are a few examples of recent advocacy initiatives – a few policy decisions were made, programs implemented, and "bad" legislation stalled. In some cases, much work remains.

Federal

1. Suspension of the federal gas tax – is just poor legislation that would jeopardize funding for roads, bridges, and transit systems. We have all been feeling the pinch at the pump with gas approaching $5.50 per gallon, but soaring fuel prices are a question of supply and demand. Hopefully a tipping point is on the horizon.
2. The Environmental Protection Agency (EPA) would like to regulate PVC (polyvinyl chloride) as a hazardous waste. It's the third most widely produced synthetic polymer of plastic. All contractors are concerned about waste disposal, and sensitive to impacts on the environment. PVC is used in hundreds of products and industries and addressing disposal concerns is a good subject for discussion, but the EPA needs to cautiously proceed with any changes to environmental regulations.
3. AGC's lobbying efforts helped lead to the bipartisan $1.2 trillion federal infrastructure package. AGC also worked to block the $1.7 trillion "Build Back Better" social spending initiative.
4. Last year AGC efforts helped stop two very confusing OSHA vaccine mandates on federal projects.

On the State level

1. PennDot initiated an automated Work Zone Speed Enforcement program about a year and a half ago. More than 645,000 tickets have been issued to motorists. Both the Associated Pennsylvania Contractors (APC), and the Construction Association of Western Pennsylvania (CAWP) lobbied heavily for this life saving program.
2. The same two organizations are currently working to stop tolling of nine bridges across the commonwealth thru ill-conceived public-private partnership legislation. Tolling would undoubtedly place an economic burden on the public, neighboring communities, and taxpayers.
3. One of the more controversial issues is the amendment of Pennsylvania's antiquated procurement laws for public construction. Not much has changed in over 100 years. Modernization would allow public owners such as school boards to choose a project delivery system. Pennsylvania is the last state to require multi- prime bidding on state funded projects which prohibits the use of any alternative project delivery. The General Contractors Association of Pennsylvania (GCAP) has taken the lead and is building a coalition to encourage the commonwealth to establish an advisory committee on the subject.

At any given time, there are dozens of bills in Congress or the PA legislature that could impact contractors. A few examples are government-mandated project labor agreements, OSHA heat hazard enforcement, new "Buy America" requirements, changes to prevailing wage laws, workplace misclassification, apprenticeship and training modifications, changes to worker compensation, and even an act for requirements of sampling and initial curing of concrete samples.

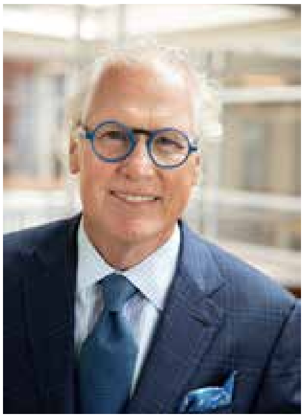
Locally

The Master Builders Association (MBA) along with other interested parties has been working with the City of Pittsburgh and Permits, Licenses, Inspections Department (PLI) to make the system less cumbersome and more efficient. Good progress is being made.

In 2021-2022 the MBA worked with various industry stakeholders in the region, including our signatory labor union partners, and the Pittsburgh Regional Building Trades to amend language included in the Allegheny County's version of Paid Sick Leave that was contradictory to the language in the City of Pittsburgh's ordinance, and which could have prevented union construction workers from receiving the benefit the ordinance intended. Through unified labor and management advocacy, and support within county leadership and the Board of Health, the language updates were completed earlier this year and there is consistency for employers between the city and county definition of employees.

The examples above advocate for good public policy and process, but there is so much more.

Our local contractors, building trade partners, subcontractors and suppliers actively support programs like "Rebuilding Together Pittsburgh," which believes everyone deserves to live in a safe and healthy home. We support local charities, offer scholarships, have toy drives at Christmas, volunteer at food banks, offer world class apprenticeship programs, pay good wages and benefits, and are helping address the needs of underrepresented populations thru diversity, equity, and inclusion initiatives. These are all forms of advocacy.



You can make a difference – so get active in your trade associations! If you don't who will?

As the AGC states: "Stay Informed - Take Action - Contribute"

Cliff Rowe is executive chairman of PJTC Holdings/ The Lindy Group. He is a past president of the MBA and GCAP.