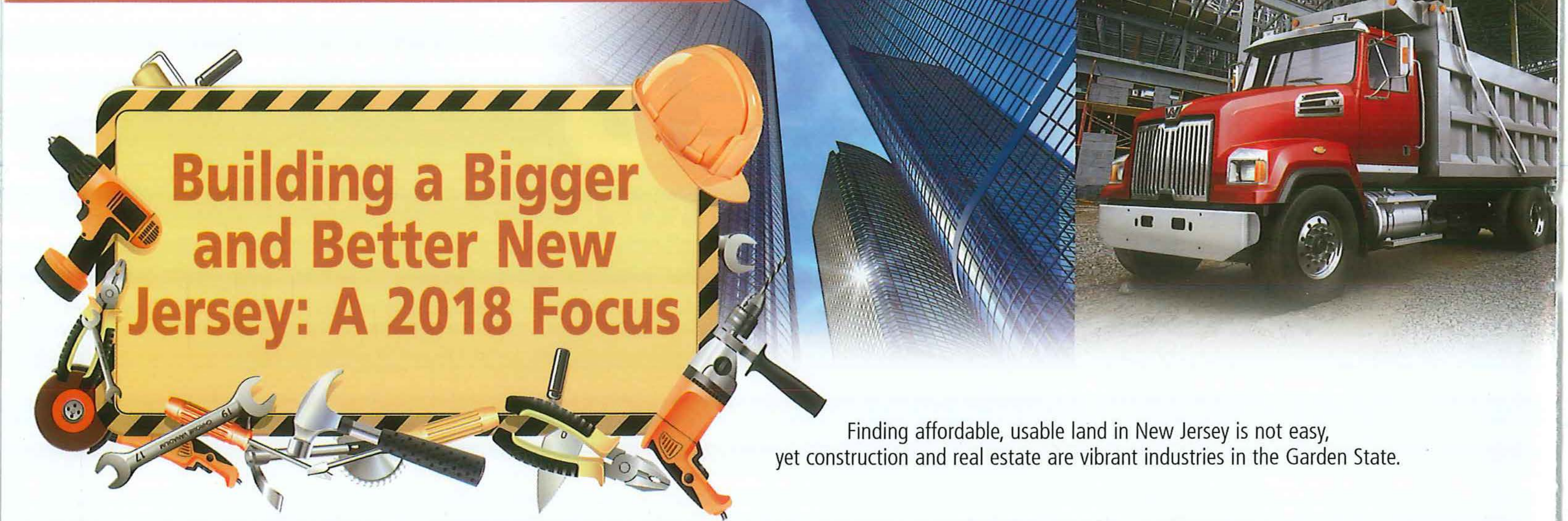


Building a Bigger and Better New Jersey: A 2018 Focus

Finding affordable, usable land in New Jersey is not easy, yet construction and real estate are vibrant industries in the Garden State.

By Martin C. Daks
Contributing Editor

CONSTRUCTION AND REAL ESTATE are economic engines for the Garden State, fueling not only these sectors, but creating work for accounting firms, banks, environmental firms and law firms, as well. Here is a state-of-the-industry report, which also features some higher education projects, for 2018.

Associated General Contractors of America
By Ken Simonson, Chief Economist

Contractors in the Garden State experienced mixed results in 2017. The outlook for 2018 looks varied as well, though there is likely to be some churning among the winners and losers.

In 2017, construction nationally benefited from gradual strengthening in single-family homebuilding; early-year activity in multi-family projects; and robust warehouse and private office construction. But public investment in infrastructure and building construction, as well as private manufacturing and power projects, slipped compared to 2016 levels. As a result, overall construction spending increased only modestly.

Activity in New Jersey more or less paralleled the nation as a whole, judging from employment data. The federal government posts state-level data on construction spending only once a year, but employment figures are released each month for every state and most metro areas. Between September 2016 and September 2017, seasonally adjusted construction employment in New Jersey and the United States both increased by about 3 percent. The largest percentage gains statewide occurred in residential building construction employment, followed by specialty trade contractors and nonresidential building construction, while heavy and civil engineering construction employment trailed year-earlier levels.

Geographically, the state's construction employment gains were concentrated just across from New York City and Philadelphia, while less-dense suburban areas and office parks saw declining activity. These patterns also reflected national trends, and appear likely to continue in 2018.

Nationally, the best growth prospects for construction segments in 2018 appear to be for single-family housing and warehouses (again), as well as schools, airports and pipelines. Manufacturing construction, which tumbled in 2017, should stabilize and perhaps pick up by late in the year. But multi-family and hotel construction are likely to shrink, after several years of rapid expansion. Spending on highways and most other public works, aside from airports, will grow modestly at best. Spending is once more likely to be clustered in cities and nearby suburbs.

New Jersey is poised to share in all of these patterns. However, the state's woeful fiscal condition may hold down public construction spending even more than in the nation as a whole. High tax rates and low population growth—0.2 percent from July 2015 to July 2016, vs. 0.7 percent nationwide—limit the prospects for demand for residential, retail or school construction.

These predictions assume no drastic change in federal tax or infrastructure policy, either of which could significantly affect the outlook for New Jersey construction. A substantial reduction in corporate taxation could attract more investment to New Jersey's manufacturing, office and research facilities, while a cutback in state and local tax deductions would accelerate the exodus of high-income taxpayers and harm the residential market. A major infrastructure package could boost plans for the gigantic Gateway rail tunnel project under the Hudson and possibly other types of infrastructure in the heavily traveled state.

New Jersey Builders Association
By Carol Ann Short, CEO

Our affiliate at the national level, the National Association of Home Builders (NAHB), is predicting housing starts for 2018 to increase approximately 5 percent to 1.25 million. Since the recession, housing starts in the multi-family sector have fully recovered, but single-family housing starts have been below normal. In its 2017 State and Metro Forecast Report, the NAHB noted, "Based on these different levels of progress to

continued on page 36

continued from page 34

date, our forecast is for a cooling off and modest declines in multi-family starts over the next few years, while production in the single-family sector continues to reach higher levels."

On the state level, New Jersey has struggled to fully recover from the recession. In addition to having the highest foreclosure rate of any state in 2016, since the recession, New Jersey has lagged behind the rest of the country in GDP, employment and productivity growth. Those factors have put downward pressure on the New Jersey building industry, and building has only recovered to about three-quarters of what is was prior to the recession, as permits for new construction have held steady between 25,000 and 30,000 per year since 2012.

This year, permits for new homes in the state are trending slightly higher than last year and we are hopeful that will continue in 2018. We also expect the strength of the mixed-use and multi-family market to continue, especially in the northeastern part of the state. For the last several years, permits for multi-family homes have substantially outpaced single family permits by two-thirds to one-third. Through the first three quarters of 2017, approximately 63 percent of building permits were issued for multi-family construction.

Numerous factors have the potential to either positively or negatively affect the New Jersey building industry next year. The state continues to face an affordability issue, especially in the housing market. When first-time buyers and low-income families cannot afford entry-level homes, that negatively affects the entire market. The ongoing affordable housing litigation taking place throughout the state may be resolved soon and could potentially offer a path to boost our industry and help the many residents in our state who face housing challenges.

On the downside, the tax reform proposal recently released by Congress could be very damaging to New Jersey. The current proposal to cap property tax deductions, lower the cap on mortgage interest deductions and eliminate state and local income tax deductions would hit states like New Jersey the hardest. Additionally, there is a great degree of uncertainty of what will happen on the legislative and regulatory fronts with the new administration of Governor Phil Murphy and the new legislative session. We are closely monitoring all of these factors, but at this time we are cautiously optimistic about the direction of the market in 2018.

ACCOUNTING: CONSTRUCTION & REAL ESTATE CASE STUDIES

Baker Tilly

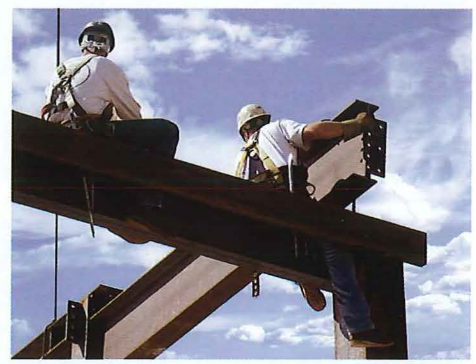
By Todd A. Carpenter, CPA, Managing Partner, Real Estate and Construction

A family-owned business that owns and manages commercial and residential real estate properties discovered one of the partnerships had made income allocations and deductions that were not in accordance with the operating agreement. Once realized, larger issues were uncovered that could have exposed the business to many potential IRS risks. Our real estate specialists worked closely with the family and the business's chief financial officer to develop and implement a plan to adjust for the imbalances in the income allocations. Our team also helped the business execute a tax-efficient transfer of wealth to children; develop a compensation policy to address value brought by family members who are active in the business and those who are not; use intra-family loans to address business needs and transfer of wealth; and negotiate a material division of assets to one family member. Baker Tilly was able to successfully guide our client through a difficult situation while navigating sensitive family dynamics. We helped the family establish relationships with experienced attorneys and investment professionals, and we continue to assist them with a wide range of tax, accounting and advisory services.

Citrin Cooperman

By Scott Derco, CPA, CCIFP, Partner, Construction Industry Practice Co-Leader

A trait amongst successful construction companies is the ability to generate and maintain positive cash flow. Poor cash flow can drive a contractor out of business, and one of the biggest potential drains on a company's cash flow is an improper handling of change orders. It is not uncommon for disputes over payment of unapproved change orders to last several months or even years. Citrin Cooperman's practice professionals continuously stress to our clients the importance of educating the project management team on how to handle change orders and protect the company from a prolonged dispute. Field personnel must be able to recognize when work falls outside of the contract scope and communicate on a timely basis so that a formal change order can be submitted. Contractors can protect themselves by maintaining good documentation to substantiate their case. This includes maintaining daily journals, meeting minutes, as well as taking digital pictures of the job site each day. Also, it is a good practice to



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continued from page 36

monitor and document change to site conditions, instances when trade contractors are stacked or when work is performed out of sequence, as well as weather conditions. Good documentation gives the contractor the best chance of getting paid in a timely manner.

CohnReznick LLP

By Jack A. Callahan, CPA, Partner, Construction Industry Leader

A change in accounting firms often creates concern with real estate and construction clients. We recently acquired a new client, and the initial year's audit process was eye-opening. The client felt this was the first time

they had truly been audited. One significant change was the allocation of indirect costs to the contracts-in-progress schedule. These costs had not been fully allocated in the past and sat as an unallocated expense in the contract costs. The process of allocation to the jobs created much discussion and awareness on the part of field and office personnel. We were given a chance by the ownership to meet with project managers and the accounting team to explain the makeup of these costs and the impact they have on operations, bidding, and financial results. A mandate was made to dig into these costs and achieve a 10 percent reduction. By applying sound audit and financial statement presentation methods, we created awareness and accountability, resulting in management and field action.

EisnerAmper LLP

By Jordan D. Amin, CPA, MST, Partner, Tax Services

A client owns and manages a portfolio of multi-family residential real estate properties. They typically invest their own money, along with money raised from outside investors. After several years of operations, the client and one of their partnering investors decided that it was best for both parties, for business and personal reasons, to terminate a particular partnership and go their separate ways. Because the partnership held real estate, the only way for the partners to divest themselves from each other was to either sell the property to a third party or for one partner to buy the other out. Neither option was a viable solution. Both parties intended to reinvest in new real estate and an outright sale to a third party would result in an unfavorable tax outcome. We were able to help structure a division of the partnership through the use of a tenancy in common agreement that allowed for each party to sell their respective share of the real estate and reinvest in new property through a Section 1031 tax deferred like-kind exchange. The client and investor have parted ways and were able to do so without any adverse tax consequences.

GKG CPAs

By Don Karlewicz, CPA, CGMA, Managing Partner

We have a number of general contractors and specialty contractors amongst our diverse client base. Construction has always been a favorite industry of mine going back to the years I spent in private industry, serving in the finance department of two large and very successful contractors. Watching a building come out of the ground, through the topping out and the ultimate tenant occupancy gives all of those involved in the project a tremendous sense of accomplishment. My partners and I have helped our contractor clients in many ways over the years, whether it be securing a credit line with a lending institution, obtaining bonding, cash flow analysis, tax planning and perhaps most importantly, timely and relevant business advice. We value the relationships that we have built with these business owners and their families and we enjoy a great sense of satisfaction from their success.

Goldstein Lieberman & Company LLC

By Phillip E. Goldstein, CPA, Founder, Managing Partner

An electrical contractor came to our firm wondering how he could have plenty of business, but not much income. In fact, the more business he had, the less profit he made. Once we examined his internal procedures, we could see that he was a great technician lacking the necessary tools to build a solid business. We immediately noticed that he was carrying too much overhead. His cash flow problems demanded closer examination. We used our proprietary software to evaluate the procedures he followed when bidding jobs contracts. Time and again, he was underbidding the work to land the contracts. This is a problem common to many businesses in the construction industry. The desire to win a bid can make it easy to underestimate the time, man hours and materials needed to get the work done without leaving money on the table. Today, thanks to our advice and analytics, this contractor has improved his process and efficiencies when bidding jobs.

Grant Thornton LLP

By Greg Ross, Construction, Real Estate, Hospitality and Restaurants National Managing Partner

Effective cash flow management is a persistent challenge we observe for real estate companies, which must continually reinvest in their business to be successful. Construction and real estate companies could be missing out on tax elections for tangible property regulations and benefits from recent account-

continued on page 40

continued from page 38

ing methodology changes because they do not understand new guidance and lease accounting standards. Our Advisory Services team recently helped a large, private real estate company navigate a complex set of regulations to accelerate the deductibility of tangible property through demolition, renovation or disposition. It was important to retain comprehensive documentation and specific reasons for accounting methodology changes. As a result, our real estate client is now knowledgeable about specific strategies to maximize its tax efficiencies and increase cash flows, giving the company a competitive advantage in the marketplace.

Grassi & Co.
By William Hughes, CPA, Audit Partner

We did an initial financial statement and tax review for one of our construction clients and uncovered a lot of different areas to help save them money, including tax method reporting and timing differences, domestic production activities deduction (DPAD) and more accurate year-end planning. Additionally, we worked with them on financial reporting and disclosure information to both its bank and surety. Our review also led us to bringing in an outside company to help with both construction and internal software and hardware implementations, which helped integrate their accounting functions, provide more accurate reporting, current cash flow analysis, and the ability to access their key financial metrics on a daily basis.

Klatzkin & Company LLP
By Tom Martin, CPA, Managing Partner

One of the more interesting ideas I have seen from our tax department was the use of the alternative cost method for a residential real estate developer. By requesting this method, a developer can include in the basis of lots sold the allocable estimated costs of common improvements such as streets, sidewalks, sewer lines and recreational facilities. The developer must be contractually obligated or required by law to provide the common improvement. The estimated cost of common improvements that a developer takes into account are those the developer has already incurred and those it reasonably anticipates it will incur during the succeeding 10 tax years. The costs allocated to the basis of lots sold cannot, however, exceed the amount of those costs that the developer has actually incurred by the end of the tax year. Even with this limitation, the deduction of costs can be significantly accelerated to defer taxes in the early years of a project when cash flow may need a boost. The accounting for the alternative cost method can be quite complex, but filing a request to use this method should still be considered by real estate developers and sub-dividers starting a long-term project.

Sax LLP
By Joseph Shannon, CPA, ABV, CVA, CFE, Partner, Leader, Real Estate Practice

A real estate client called for assistance in structuring a deal whereby they would contribute undeveloped property, and a private equity partner would contribute cash for development in a new joint venture partnership. The joint venture would then distribute $1.5 million to our client as part of the deal. The issue in turn was that the Internal Revenue Code views this as a taxable "disguised sale," treating a portion of the property as being sold in a taxable transaction. Disguised sale rules are complex, and layered with many "traps of the unwary." To bypass this, our real estate advisors identified two exceptions that could be used as part of this transaction: One, there was a reasonable preferred return on investment, which is a preferential distribution to investors that cannot exceed 150 percent of the highest applicable federal rate in effect when the payment is made. Two, prior to the contribution of the property to the new joint venture, our client borrowed funds from a bank to reimburse its investors for qualified preformation expenses. Under both exceptions, disclosure is not required on the joint venture tax return as long as the partnership met the strict requirements per the disguised sale tax regulations. In conclusion, our client received the $1.5 million without triggering a taxable disguised sale event.

Sobel & Co., LLC
By Mariana Moghadam, CPA, Tax Director, Real Estate Practice Director

Real estate owners often spend a significant amount replacing portions of building components. Generally, costs that don't have direct benefit, and are not incurred because of an improvement, do not have to be capitalized and are currently deductible as repair and maintenance costs. We recently worked with a new client that had an extensive list of capital assets. We reviewed and analyzed their schedule of property, plant and equipment. With our understanding of building components and the Tangible Property Regulations, we were able to ask insightful questions to obtain the facts and circumstances and evaluate the nature of the work that was performed since the purchase of the building. Our careful analysis produced supportable rationales for appropriately treating a majority of the expenditures that were previously capitalized as deductible

continued on page 42

continued from page 40

repair and maintenance costs. Because of the unique opportunity that was available to taxpayers in 2016, we were able to request an automatic change in accounting method for our client and deduct the remaining book basis of those assets. As a result, our client received an extensive tax benefit from this deduction.

BANKING: CONSTRUCTION & REAL ESTATE PROJECTS

CSBK

By Diane Scriveri, Executive VP, Chief Commercial Loan Officer

Recently a CSBK commercial real estate client experienced a major fire within their 36-unit apartment building. We learned of the early morning fire watching it live on major news channels; that same day we connected directly with the client. Our priority was to confirm there were no injuries. We then contacted their insurance carrier to facilitate the release of claim proceeds to CSBK. Security deposits were returned to the tenants, and we met with our client on-site as plans to rebuild were formulated. Despite delays within the permitting process, the CSBK team made sure funds were available for the restoration work to continue. Our real concern for the displaced residents and responsiveness has solidified the meaning of community banking for these clients—we were there when they needed us most. We are happy to report the restoration is ahead of schedule and many of the former tenants are eager to move back in.

Valley National Bank

By Tom Iadanza, Senior Executive VP and Chief Lending Officer

Being able to deliver for a real estate developer is a key element in any banking relationship. At Valley National Bank, we pride ourselves in developing the sustainability aspect of any of our customer relationships. Case in point, a successful and longtime real estate developer gets well down the road on a large North Jersey condominium project only to find out terms and conditions offered by a competing bank, were not as advertised. Under construction at that point, the customer called Valley with "I need to close. Can you help me?" With clear lines of communication and a flexible approval process with senior management, our loan officer was able to respond quickly and close within the required timeframe. The construction loan was approved and closed shortly as advertised. Our ability to remain flexible and meet the diverse needs of our client helped us create a new relationship.

ENVIRONMENTAL BUSINESS: CONSTRUCTION & REAL ESTATE CASE STUDIES

Atlantic Environmental Solutions Inc.

By Michael Novak, President

After Hurricane Sandy, a neighborhood in the City of Bayonne experienced considerable flooding, and when the water receded, it left behind an oily mess on homes, garages, etc. AESI was brought in to help the city with reconnaissance and remediation including soil and air sampling, cleanup activities and other related services. We determined the source of this oil spill was surficial and not ongoing; given the magnitude and chaos of this storm, the source was never really known. AESI evaluated 1,500 homes impacted by Superstorm Sandy, and provided LSRP services for the City of Bayonne. Flooding also impacts a building's indoor air quality (IAQ). When a property owner calls us about flood damage, we perform a site inspection and testing, and, if mold is discovered, a remediation program is designed, which involves removing all mold-damaged materials and setting up a containment area where all work is performed to minimize mold spores being released into the air. Once the site is cleaned and air quality passes inspection, we help the property owner with their rebuilding efforts. After the recent hurricanes, a national retailer recently awarded AESI an IAQ and mold evaluation survey for 50 of its stores in Puerto Rico impacted by hurricane damage.

Tapash

By John Bee, P.G., LSRP, President and CEO

At a location in Atlantic Highlands, there was a historic onsite coal and feed supply (Mortensen and Coutts, 1950-1976) and fuel oil supply operation (identified as McConnell Fuel Oil) between 1976 and 1986 that included two 10,000-gallon ASTs. An onsite fuel oil spill was reported to the NJDEP in 1978. Former onsite operation of boat storage/maintenance and reported boat/engine repairs were conducted during the 1980s and 1990s and have impacted the shallow historic fill soils, identified by sampling by Mellick Tulley.

Tapash Environmental Consultants found that the site was contaminated with fuel oil at the southwest corner of the site from the prior fuel oil dealership and metals in the surficial fill from the boat storage and painting. Tapash's work involved site investigation and soil removal, taking post excavation soil samples and ground water samples from five temporary wells to 10 feet installed by a Geoprobe drill rig. The investigation was prompted by the presence of trace amounts of fuel.

AOC-5/REC-5 ground water was identified by MTA as contaminated with polyaromatic hydrocarbons (BN, 2-methylnaphthalene at 157 ppb exceeds the NJDEP GWQS of 30 ppb) from the oil spillage and metals. Ground water sampling results from MW-2 detected several metals (arsenic, iron, magnesium and sodium) above the NJDEP Ground Water Quality Standards (GWQS). It should be noted that several of these metals were also detected in the fill material above the IGWSSL. After the historic fill and oil-contaminated soils were removed in July 2015, there were no polyaromatic hydrocarbons in the ground water above the Drinking Water Standards.

continued on page 44

continued from page 42

Tapash dug up approximately 100 tons of reinforced concrete slabs and piers and 1,500 tons of contaminated historic fill soils, removed a fuel oil spill in the western corner and backfilled the excavation with certified clean clay fill from the Raritan Center clay pit.

For the real estate developer, all suspect fill—including a layer of coal and ash—was removed and replaced with clean fill, and the fuel oil spill in the north of the site adjacent to the former above-ground tanks and the rail siding was removed by over-excavation. We resealed the deeper excavations below seven feet with Raritan Clay to replace the glauconitic clay layer beginning at four feet to seven feet deep under the site. We backfilled to two feet above the water table.

HIGHER EDUCATION: NJ COLLEGE AND UNIVERSITY CONSTRUCTION PROJECTS

Bergen Community College
RSC Architects, Benjamin R. Harvey Contractors

Bergen Community College's Health Professions Integrated Teaching Center represents the institution's project as part of the 2012 Building Our Future Bond Act passed with bipartisan support in the legislature and approved by voter referendum in that year's elections. The 63,000-square-foot, state-of-the-art facility features simulation laboratories and SMART classrooms to enhance the learning experience, preparing students with the advanced skills needed to succeed in today's evolving healthcare labor market. A first-floor, 24-chair dental hygiene clinic allows students to complete 600 hours of clinical practice, and provides the local community with a low-cost oral healthcare option.

Berkeley College School of Health Studies
Architect: Michael Kuybida, Woodland Park, New Jersey Contractor: Vericon Construction, Mountainside, New Jersey (Charles DeAngelis)

continued on page 46

continued from page 44

The School of Health Studies facilities at Berkeley College in Woodland Park include nine teaching laboratories, staff offices and faculty work stations. The labs are used to teach students enrolled in the Medical Assistant, Practical Nurse, Patient Care Technician, Surgical Processing Technician, and Surgical Technology programs. Berkeley College in Woodland Park also offers an accelerated program for Licensed Practical Nurses (LPNs) to earn their Bachelor of Science in Nursing (BSN) degrees in less than three years. The facilities are located adjacent to Renaissance Hall, a modern hub for campus activities, student resources and amenities, and student services such as the Library and the Center for Academic Success.

Georgian Court University
General Contractor: Irwin & Leighton, King of Prussia, Pennsylvania

Georgian Court University is renovating Hamilton Hall to improve its facilities for nursing education. The upgrades will enable GCU to expand the Georgian Court–Meridian Health School of Nursing program to increase the number of highly trained, bachelor's degree-prepared nurses for New Jersey's healthcare system. The completed renovations include classroom reconfiguration to allow for larger classrooms and labs; technology upgrades for five teaching spaces; accessibility improvements, including the installation of a new elevator to allow handicap access to all three floors of the building; parking lot reconfiguration to meet parking needs of the program expansion; building improvements to increase energy efficiencies, including window replacement, LED lighting, a boiler addition and heating zone control and electrical upgrades; and nursing equipment upgrades and the purchase of high-fidelity human patient simulators to enhance nursing training.

Hudson County Community College
RSC Architects

In September 2017, a new $25.9 million, 70,070-square-foot Science, Technology, Engineering and Math (STEM) building opened on the Jersey City campus of Hudson County Community College. Designed by Hackensack-based RSC Architects, the state-of-the-art complex consolidates and centralizes the college's STEM programs into one location serving 700-750 students. Opened for the Fall 2017 semester, the new building is located at 263 Academy Street near Journal Square in Jersey City, with easy access to NJ Transit buses and trains. The site

continued on page 48

LSRP UPDATE

New Jersey's LSRP Program is Working and Improving

By Bob Martin
NJDEP Commissioner

The LSRP program has made a difference in communities across the state, protecting public health, natural resources and creating opportunities for redevelopment and jobs.

NEW JERSEY'S Licensed Site Remediation Professional (LSRP) program is an outstanding example of the New Jersey Department of Environmental Protection's (NJDEP's) success at being innovative and transforming the way we carry out our mission. Since the start of this program, the pace and progress of remedial investigations have picked up markedly. Responsible parties have clear goals and understand our expectations for thorough and timely cleanups. Today, we have some 14,300 active contaminated sites, down from 20,000 prior to the passage of the Site Remediation Reform Act.

The number of contaminated sites—including many underground storage tank cases—is always fluctuating, as sites enter or are removed from the state's Known Contaminated Site List. In fact, some 25,000 sites have been successfully processed through the Site Remediation Program thanks to our new efficiencies. The LSRP program has made a difference in communities across the state, protecting public health, natural resources and creating opportunities for redevelopment and jobs.

Through the Brownfields Development Area program and Hazardous Discharge Site Remediation Fund, the NJDEP has provided more than $70 million in grants for more than 275 projects since 2010. Through our partnerships with businesses, municipalities and others, we have turned many of these sites back into economically valuable properties once again. The NJDEP continues to work closely with the USEPA to ensure that New Jersey's Superfund sites are cleaned up and that every effort is made to ensure responsible parties are held accountable for paying for the work.

continued from page 46

was formerly a parking lot for the school. The new STEM facility includes 14 general classrooms; 10 science labs for the study of microbiology, genetics, and engineering; an open lobby design; an outdoor collaborative space; a multi-purpose room; and offices for administrative officials. State-of-the-art equipment including autoclaves, incubators, ionizers, explosion-proof refrigerators and vacuum ovens were built into the labs.

Kean University
Gruskin Group

The 114,700-square-foot North Avenue Academic Building houses Kean's health and computer science programs. The high-tech educational and

research facility opened on June 9, 2016. The building is designed to anchor Kean's campus architecturally and extends the university's pedestrian-friendly campus plan with flowing paths and park-like outdoor spaces. Gruskin Group designed the building with a number of unique features, including a 500-seat auditorium featuring a Meyer Sound "Constellation" active acoustic system; an interactive audience collaboration system; and a 30 foot wide by 7 foot high, interactive iTouch wall.

LAW: CONSTRUCTION & REAL ESTATE CASE STUDIES

Cole Schotz P.C.
By Richard W. Abramson, Esq., Member and Co-Chairman, Real Estate Department and the Real Estate Special Opportunities Group

In March 2017, a developer client discovered that sprinkler heads that had been installed in a northern New Jersey warehouse were not code-compliant. More specifically, because the height of portions of the warehouse exceeded 40 feet, the responsible subcontractor was required to install K-25 pendant sprin-

continued on page 50

continued from page 48

kler heads. Instead, the subcontractor installed less powerful K–16.8 sprinkler heads. We worked with the client in reviewing numerous proposals for the corrective work and, on behalf of the client, negotiated an agreement whereby a new contractor agreed to perform the requisite corrective work for approximately $100,000. We also worked with the client in negotiating four settlement agreements whereby the general contractor, its responsible subcontractor, the architect and an engineer each agreed to pay to the client 25 percent of the cost of the corrective work in view of each party's failure to perform the installation or oversee the installation of the sprinkler heads as required by their respective contracts.

Greenbaum, Rowe, Smith & Davis LLP
By Thomas J. Denitzio, Jr., Esq., Co-Chair, Real Estate Department

Having served as General Counsel to New Jersey REALTORS® (NJR) for many years, the firm's Real Estate Department recently advised NJR on the development of its new headquarters location in Trenton. Our attorneys negotiated and structured a complex redevelopment agreement with the Mercer County Improvement Authority (MCIA), pursuant to which NJAR purchased land from the MCIA and constructed its headquarters building at the property. We advised NJR on obtaining its land use approvals for the new building and counseled NJR regarding property tax abatements and other economic incentives for the project. Our team negotiated the construction agreement with NJR's general contractor and the architect's agreement with the project's architect and advised NJR on the environmental remediation of the site.
In addition, team members advised NJR on access and parking easements entered into with the MCIA in connection with the shared use of parking facilities at the site, and assisted the team with the closing on the site acquisition.

Mandelbaum Salsburg
By William Barrett, Esq., CEO

Mandelbaum Salsburg had a client looking to sell an old commercial/industrial property in Newark. We had a Phase I environmental site assessment, the only noteworthy issue in which was a sentence indicating that in the 1930s the building had been used for hat manufacturing. Since we

continued on page 52

continued from page 50

knew from the "Mad Hatter" in *Alice's Adventures in Wonderland* what made hatters go mad, we were concerned that those hat manufacturing operations may have used mercury, an expensive, hazardous substance. We recommended that the client purchase an environmental insurance policy before permitting any contract purchaser to do any environmental tests during its due diligence on the property. We negotiated and procured the policy for the client. Long story short, the contract purchaser tested for mercury and found it throughout the lower floors of the building. The insurance company has confirmed that we now have $2 million in insurance coverage to assist with the remediation of the mercury in the building. While we've assisted clients with the purchase of environmental insurance policies for more than 200 properties, this is one of the better examples of solving a problem the client didn't even know that it had.

Norris McLaughlin & Marcus, P.A.
By Dan Guadalupe, Esq., Director, Construction Practice

A famous fictional detective said, "The world is full of obvious things which nobody by any chance ever observes." But I have observed keenly over the years. I was representing the owner of a new commercial warehouse in New Jersey. The contractor did a horrible job with the concrete slab and the pavement, both key to a warehouse. We sued. The contractor confidently swore to the jury several times he was at the site every single day devoting his full attention. What he didn't know was that in a deposition, I noticed the logo of his golf club on his polo shirt. I directed my team to investigate. The club was in Florida, and he was a member. He was there the entire month he told the jury he was in New Jersey. If he was there for a month, I figured he probably bought a house at the golf resort. Bingo. He bought a house, went to a closing, and played golf several times—during the very month when he was supposedly visiting the site every day. I even showed him copies of his own plane tickets. He fell on his sword in cross-examination, and we won. Thank you, Mr. Holmes.

Riker Danzig Scherer Hyland & Perretti LLP
By Nicholas Racioppi, Jr., Esq.,
Chair, Real Estate Law Practice

Riker Danzig recently represented a fitness/child care facility in its acquisition of a former office/light industrial building. In the sale contract, the seller gave a representation that the property was not subject to New Jersey's Industrial Site Recovery Act (ISRA). During due diligence, it was discovered that the seller's ISRA representation was incorrect due to manufacturing operations which had ceased more than 15 years ago. Our client was a motivated buyer in need of this site. The seller was less motivated to part ways with his property. Rather than saber rattle, we worked with the seller to craft a mutually agreeable solution. We allowed the seller to "fix" his ISRA problem by filing a request for a De Minimus Quantities Exemption (DQE) with the NJDEP. In exchange, the seller agreed to allow us to perform invasive testing, which was prohibited under the original contract, to alleviate our client's concerns regarding the environmental conditions of the property. The result was a happy ending. The seller obtained the DQE, which brought the property into compliance with ISRA. The purchaser received the "clean bill of health" from its environmental consultant it needed. The property closed in November 2017. ■