

Letters

Not Everyone Likes Aas Decision

To the Editor:

While I agree that lawyers tend to go berserk on frivolous law suits, and I hate it, the article "California Supreme Court Says No to Homeowners" (*Notebook*, 3/01) makes me cringe. The statement that "a plaintiff's electrical expert can go through almost any house and find a list of minor code infractions" implies that a builder can ignore the code. Is it code or not? If so get off your duff and do it right, or get the code changed.

Scott Graham, Ph.D.
Graham Technology Consultants
San Diego, Calif.

To the Editor:

The example you cite in your article is a perfect example of why the Aas decision is "aasinine." The electrical subcontractor is now invited to build an electrical death-trap and the homeowner or general contractor must wait until someone is electrocuted to get the money to fix it. The same logic is applied to seismic safety problems: The court sees no problem until an earthquake wrecks your house. This ruling is the work of jurists with too many books and no common sense. It is doubtful that the problem will be rectified by the California legislature until a sufficient number of people are killed and that gets their attention.

Chuck Utzman, P.E., G.C.
via email

Unpopular Subject

To the Editor:

Thank you, Quenda Behler Story, for the timely article about immigration law and employment in the building trades (*Legal Adviser*, 2/01). It was interesting, informative, and

hopefully the first of more to come on this unpopular subject.

All too often, rational discussion about this issue is so clouded with accusations of xenophobia, or more commonly, racism, that most folks simply shy away from it.

One of the dirtiest secrets in the construction industry in this part of the country (and others, I'm sure) is the willingness of far too many builders, contractors, and homeowners to turn a blind eye to the blatant use of illegal immigrants — working for a fraction of reasonable wages — to help shore up a sagging labor base.

Ms. Story's remarks about Congress "protecting us" notwithstanding, immigration law is in place in part to prevent the nation as a whole from devolving into the state of chaos that now defines much of our southern border.

I would urge all construction professionals to contact their representatives in Washington, D.C., to pressure the INS to fairly, firmly, and aggressively enforce current immigration law.

Mike Shannahan, Owner
Mike Shannahan, Master Carpenter
La Porte, Texas

But Who Got Sued?

To the Editor:

As a contractor, I find it most important to pay attention to details no matter how small, and follow-up on all details to the end. Imagine my frustration with the article "Kids and Job Sites: Who's Liable?" (*Notebook*, 1/01). The author tells of a case where drywall was being stacked on site and a kid got hurt. "Who was at fault?" the article asks, then poses hypotheticals: the parents, the sub, the GC. We learn that the court ruled there were

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grounds for a lawsuit for several good reasons — but who got sued?

And by the way, why can't we have a fax number for editorial comments? I'd write all the time if you did! (Maybe that's the point?)

Tom McManus

Tom McManus Construction
Sunol, Calif.

Don Jackson responds: Good question. Here's what happened, according to the court record: The parents of the injured 11-year-old sued both the GC and the drywall sub for negligence. Upon request for summary judgment, the district court ruled in favor of both the GC and the drywall contractor, finding insufficient grounds for the suit to proceed. The family appealed, however, and the appeals court found that while the GC, who was the also the property owner, could not be sued, the suit against the drywaller could go forward. The case hinged on the question of whether the drywall sub was acting as an independent contractor or not. The GC's only involvement in the drywall work was to let the drywaller know when the site was ready for him; he did not directly supervise the work. Under Texas law, that made the drywall sub liable as an independent contractor, even though the builder owned the property and might otherwise have been liable.

In his defense, the drywaller argued that he had stacked the drywall on edge according to "industry custom." To this the court answered, in essence, "So what? Who says the industry custom itself isn't negligent?" There is no further record of the case, meaning most likely that it was settled out of court.

Thanks for your comments. And by all means, fax those letters to my attention at 802/879-9384.

Old House Advocate

To the Editor:

I must take exception with Stephen Quarles' approach in rebuilding the

porch on an 1880s farmhouse (*On the House*, 3/01). His advice to ensure proper ventilation and use pressure-treated joists is excellent. However, replacing tongue-and-groove fir with pressure-treated or plastic deck boards degrades the visual integrity of the century-old farmhouse. The fir flooring may be sealed with water sealer or paint on all four sides before installation, with additional top coats after it is in place. This, coupled with adequate ventilation, should be sufficient to stop fungus growth. Also check that downspouts do not discharge beneath the porch.

Marv Glover
Eugene, Ore.

No More Rednecks

To the Editor:

The article on safety gear (1/01) mentioned "a cotton neck protector like those seen in old movies about the French Foreign Legion." Which of the suppliers listed carries that item?

Allan McPherson
via e-mail

The neck protector is available from Bullard (1898 Safety Way, Cynthiana, KY 41031; 800/227-0423; www.bullard.com).

— The Editors

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