

# TENNESSEE HomeBuilder

May/June 2008

*Official Magazine of the Home Builders Association of Tennessee*

**House of  
Representatives  
Minority Leader**

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for accountability  
in government  
spending

*State Representative*

**Jason  
Mumpower**



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# TENNESSEE HomeBuilder



May/June 2008



## WHO WE ARE

The Home Builders Association of Tennessee (HBAT) is a not-for-profit trade association comprised of professional builders, developers and associated firms engaged directly or indirectly in home building, remodeling and light commercial construction.

## MISSION STATEMENT

The Home Builders Association of Tennessee represents over 6,500 member firms as the Voice of the Housing Industry. We advocate housing affordability and availability through:

- Legislation
- Communication
- Education



*In this edition of the Tennessee Home Builder, meet Jason Mumpower, House of Representatives Minority Leader, and learn more about important builder news and legislative issues.*

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House of Representatives Minority Leader

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# TENNESSEE HomeBuilder

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## President's Perspective

# HISTORY REPEATS ITSELF

I am not sure how many of you can actually remember the 1970's oil embargo, Watergate and the hideous clothing styles of that era, but historically our economic situation seems to confirm the old adage that "history repeats itself." Economists tell us that consumer confidence levels are at a 35 year low—December 1973, 45.2 percent. At the time of this article, the Consumer Confidence Index has declined to 47.9 percent, down from 58 percent in February. High gas prices and a declining housing market have definitely created an economic environment of pessimism.

The federal government has tried to resuscitate the economy with economic programs and assistance. According to journalist, Kimberly Amadeo (publisher of WorldMoneyWatch.com), here are the totals:

- \$200 billion from Fannie and Freddie.
- \$30 billion from the Fed to JP Morgan Chase for its rescue of Bear Stearns.
- \$200 billion loan from the Fed.
- \$200 billion in loans the Fed made through its Term Auction Facility. There were eight auctions held between December 20, 2007 and March 24, 2008.

Kimberly points out that this is "a total of \$730 billion in sub-prime mortgages that the Federal Government has guaranteed."

The National Association of Home Builders has noted that member surveys confirm that builders have seen an improvement in the number of prospective buyers who are visiting model homes, and consumer attitudes toward home buying have perked up in recent months. However, NAHB Chief Economist, David Seiders, noted that "...this hasn't yet translated into greater sales activity, and it stands to reason that additional stimulative measures—such as a temporary home buyer tax credit, FHA modernization and GSE reform—could have substantial positive impacts on both the housing

market and the overall economy."

Regionally, sales activity was mixed in the month of February. The Northeast registered a 40.3 percent decline while the Midwest posted a 6.4 percent decline, the South posted a 5.7 percent increase and the West eeked out a 0.7 percent gain. (*Information gathered from [www.nahb.com](http://www.nahb.com)*)

So is the sky really falling? Are we headed for a recession? Will housing improve in 2009? Is Elvis really working as a cashier at Wal-Mart in Memphis? I'm afraid I can't offer any certain answers to any of these questions. But, if you are one of the individuals who made it through the economic challenges of the 70s, I can assure you that there is light at the end of the tunnel. Working together and meeting the challenges of our own industry in Tennessee can play a large part in the solution to our economic woes. Remember in a former article, I talked about—

**Turning our  
Association up one  
degree to the boiling  
point? NOW is the  
time for action!**

So let's focus for a moment on the positive news from your State Association. I am proud to report that after reviewing more than 1,500 bills during this Session, the HBAT staff has been able to report positive results in the legislative efforts on issues such as scrap metal, water quality, immigration, workers' compensation, blasting surveys, licensing contractors, noise ordinances, growth taxes and the Arc Fault Circuit Breaker issue.

This year's Legislative Conference turned out to be a huge success, with the crowning event being a grand introduction of members and their legislators to our new offices in downtown Nashville. After an important day of visits on Capitol



*HBAT President James Carbine*

Hill, members and Tennessee Legislators gathered for an informal time of food and fellowship. This is the type of involvement that creates the important relationships our organization must have to keep the housing industry in Tennessee moving forward towards recovery.

In 1933, Franklin D. Roosevelt took office with unemployment at 33 percent. An astounding 45 percent of family homes had been, or were in danger of foreclosure, and the banking system had collapsed. When Roosevelt died in 1945, he had left the United States twice as wealthy, and his efforts and programs remain a historical lesson in crisis management.

I believe that economic stimulus with a dedication to economic stability is the key to recovery. The tides and currents of American economic history have proven that we can be very resilient and resourceful when it comes to a difficult economic environment. Within the realm of the Home Builders Association of Tennessee, I would now issue a challenge of continued growth and a dedication to finding solutions rather than focusing on problems. In the long term, we will use these times of adversity to become a stronger and wiser industry.





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Reclaim The Fame



Executive Officer Outlook

# Reclaim the Fame

**“Success is not final, failure is not fatal: it is the courage to continue that counts.”- Winston Churchill**



*For centuries, it was the custom for victorious Roman Generals to receive a ‘Triumph’ upon returning to Rome. A ‘Triumph’ was a great parade through the streets of Rome itself in which the victorious General, dressed in white and riding in a shining chariot, led a strange procession of shackled prisoners, plunder from far off lands, exotic animals, and the Roman legions, arrayed in their finest battle gear, marching in precision formation. The people of Rome would stand on their balconies or in the streets and cheer the victorious General and throw flower petals at his feet. The noise was deafening; the celebration wild; the praise heaped upon the triumphant armies great. But always, behind the General in his chariot, would stand a little slave girl holding a golden crown and whispering the warning over and over in his ear—“Victory is fleeting. Victory is fleeting. . . .”*

## An Unprecedented Membership Drive

I am sure that most of you remember the amazing results of the 2006 Membership Drive???? Due to some very hard work

and countless dedicated members, the state association grew by unprecedented numbers. As of January 2007, we hit an all time high of 6,910 members. There was excitement and a lot of back patting going on last January, and a number of associations across the country tried to analyze how Tennessee obtained such a high membership success rate. It was a proud moment to say the least. But I seem to hear a little voice in my ear, “Victory is fleeting, Victory is fleeting...”

I believe everyone has learned an important lesson about the balance between obtaining members and retaining members. But now, I believe our team is ready to **RECLAIM THE FAME** and move beyond the 7,000 members mark! How will we do this? I’m glad you asked.

## Reclaim The Fame! The HBAT’s 2008 Membership Drive

I would like to introduce the HBAT 2008 Membership Drive, the brainchild of two spirited and committed members, HBAT Membership Chair Ludy Callaway and Vice Chair Al Binz. Here’s how it works. Each local will be responsible for recruiting a small percentage of the members needed to **RECLAIM THE FAME** and get back to 6,910, based on March’s 2008 total members.

The HBAT will contribute \$500 to each local to be used at their discretion for their membership efforts. To qualify for the \$500 seed money, all a local has to do is accept their net growth goal total and provide the HBAT with a simple written plan on how they will reach their goal. Then a \$500 check will immediately be sent to the local! It’s just that simple. The money can be used to purchase incentive prizes, off-set membership drive expenses or host a celebration event. It’s entirely up to the local.

Every local is eligible and is encour-



Susan Ritter, HBAT  
Executive Vice President

aged to participate and **RECLAIM THE FAME**. We’ll track on-going results in the magazine and on the website and celebrate our accomplishments at the HBAT Summer Board Meeting in July as the “mid-point” of the drive.

Final recognition of each local’s Reclaim The Fame efforts will take place at HBAT’s October Fall Board Meeting in Knoxville. All results will be based on NET GROWTH and official totals will be determined using the NAHB’s September 30, 2008 membership report.

Locals are also encouraged to participate in May’s NAHB National Membership Drive, especially on May 20, NAHB Membership Day. And, don’t forget, May is National Membership Month and all recruiting members will receive double Spike Credits and qualify for outstanding NAHB membership incentives.

Let’s exceed our own expectations, grow by exceptional numbers and **RECLAIM THE FAME!!!**







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# Governor Bredesen's TASK FORCE ON ENERGY POLICY

## "Green Building & Energy Efficiency"

### Legislative Review

Steven Cates, Chair  
Government Affairs  
Committee



The Energy Efficiency and Green Building movement continues to gain momentum in Tennessee. In March, Governor Phil Bredesen signed Executive Order 54, creating the Governor's Task Force on Energy Policy. The Task Force will consist of 16 members made up of members of the Governor's administration, state legislators and experts from industry, environmental advocacy groups and academic/research institutions. The HBAT's own **Phil Chamberlain, Sr.**, of Cordova, TN, was appointed by the Governor to represent the building and construction industry. The Task Force will be responsible for formulating a state energy plan that will ultimately be the basis for new legislation the Governor will pursue next January in the General Assembly.

The state legislature is also pursuing energy conservation legislation HB 2757/SB3092 sponsored by Representative Jim Hackworth (D-Clinton) and Senator Tommy Kilby (D-Wartburg). This bill, if enacted, would:

*Create a joint study committee to study the issues of energy efficiency in residential and small commercial construction. Issues to be considered are incentives that will encourage the adoption of methods and materials that can increase the energy efficiency of residential and small commercial buildings constructed in this state, and the feasibility of establishing benchmarks or other methodologies for evaluating the impact of incorporating methods and materials that purport to increase energy efficiency in residential and small commercial construction.*

The committee will hear presentations from various producers of energy efficiency standards and assessment programs, including Green Globes, LEEDS, NAHB Green Building Program and Energy Star.

The legislative study committee will consist of 14 members, including "one (1) general contractor licensed in this state who specializes in residential construction, to be appointed by the speaker of the house of representatives from a list recommended by the Home Builders Association of Tennessee."

The HBAT staff, working with Rep. Hackworth, was successful in including language in the proposed legislation that will allow us to present information to the committee regarding our new NAHB Green Building program and to allow the HBAT to submit a list of names to Speaker Naifeh from which he can choose as the committee appointee representing the residential construction industry.

Green Building and energy efficiency are poised to be one of THE leading issues during the 2009 legislative session. The HBAT, with appointees on both the Governor's Energy Taskforce and the proposed legislative joint study committee, is well poised to help shape reasonable, common-sense energy policy in Tennessee.

### Chamberlain Named to Governor's Task Force on Energy Policy



Phil Chamberlain, Vice President and Secretary of the Home Builders Association of Tennessee (HBAT), was recently appointed to the new "Gov-

ernor's Task Force on Energy Policy" by Governor Phil Bredesen. Chamberlain, who will represent the building and contract industry, is vice president and partner of Chamberlain & McCreery Inc., a Cordova-based general contracting company licensed in Tennessee and Mississippi.

On March 19, 2008, Governor Bredesen signed an Executive Order establishing the Task Force. It is charged with developing a state energy plan to make Tennessee a leader in energy efficiency and conservation, use of alternative fuels and renewable energy sources, and the development of clean-energy technology.

In developing the plan, the Executive Order charges the Task Force with identifying:

- » Opportunities for state government to lead by example in energy efficiency and conservation, with an emphasis on building construction and management and vehicle fleet management
- » Prospective policies, legislation, regulations or incentives to encourage statewide energy efficiency and conservation in the public and private sectors
- » Possible public-private partnerships and collaborations to encourage research and development of clean-energy technology and increase economic development potential in the state's energy sector
- » Strategies for expanding the use of alternative fuels and renewable energy sources to support the sustainability of Tennessee's environment

The Task Force on Energy Policy held its initial meeting on April 7, 2008. It will present its findings and recommendations on ways for state government to lead by example by July 1, 2008, and deliver the state energy plan to the Governor by December 1, 2008.





## Why did the chicken cross the road?

**Dr. Phil:** The problem we have here is that this chicken won't realize that he must first deal with the problem on 'THIS' side of the road before it goes after the problem on the 'OTHER SIDE' of the road. What we need to do is help him realize how stupid he's acting by not taking on his 'CURRENT' problems before adding 'NEW' problems.

**Oprah:** I understand that the chicken is having problems, which is why he wants to cross this road so badly. So instead of having the chicken learn from his mistakes and take falls, which is a part of life, I'm going to give this chicken a car so that he can just drive across the road and not live his life like the rest of the chickens.

**George W. Bush:** We don't really care why the chicken crossed the road. We just want to know if the chicken is on our side of the road, or not. The chicken is either against us, or for us. There is no middle ground here.

**Anderson Cooper:** We have reason to believe there is a chicken, but we have not yet been allowed access to the other side of the road.

**Martha Stewart:** No one called me to warn me which way that chicken was going. I had a standing order at the Farmer's Market to sell my eggs when the price dropped to a certain level. No little bird gave me any insider information.

**Barbara Walters:** Isn't that interesting? In a few moments, we will be listening to the chicken tell, for the first time, the heart warming story of how it experienced a serious case of molting, and went on to accomplish its life long dream of crossing the road.

**John Kerry:** Although I voted to let the chicken cross the road, I am now against it! It was the wrong road to cross, and I was misled about the chicken's intentions. I am not for it now, and will remain against it.

**Bill Gates:** I have just released eChicken2008, which will not only cross roads, but will lay eggs, file your important documents, and balance your checkbook. Internet Explorer is an integral part of eChicken. This new platform is much more stable and will never cra...#@&^(C%.....reboot.

**Dr. Seuss:** Did the chicken cross the road? Did he cross it with a toad? Yes, the chicken crossed the road, but why it crossed I've not been told.

**Grandpa:** In my day we didn't ask why the chicken crossed the road. Somebody told us the chicken crossed the road, and that was good enough.

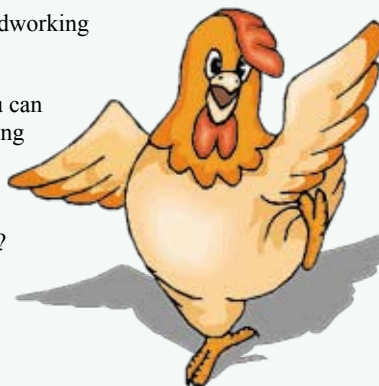
**Pat Buchanan:** To steal the job of a decent, hardworking American.

**Colin Powell:** Now to the left of the screen, you can clearly see the satellite image of the chicken crossing the road....

**Bill Clinton:** I did not cross the road with THAT chicken. What is your definition of chicken?

**Colonel Sanders:** Did I miss one?

**Dick Cheney:** Where's my gun?



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## Meet the House of Representatives Minority Leader

# Jason Mumpower



### Public Offices held by Representative Mumpower

- House member of the 100th through 105th General Assemblies
- House Minority Leader
- Member, House Rules Committee
- Member, House Ethics Committee
- Member, House Finance, Ways and Means Committee
- Member, House Government Operations Committee
- Member, House Health and Human Resources Committee
- Member, House Professional Occupations Subcommittee
- Member, Joint Lottery Oversight Committee
- Member, Joint TACIR Committee

### What is a Minority Leader?

Our Tennessee representatives known as **Majority and Minority Leaders** are elected by their party's caucuses that hold the majority and the minority respectively. These leaders serve as the chief spokespersons for their parties and manage and schedule the legislative and executive business of the House.

**I**t seems that every so often, you run into one of those really great individuals whose sincerity, wit and dedication are truly impressive. Representative Jason Mumpower is one of those people. When we asked him about hobbies and what he did in his spare time, he told us that he really enjoyed movies, at the theater or at home, and that his comic book collection was rather extensive. Now this is not a typo – he has a collection of more than 17,000 comic books gathered over a period of 23 years. When asked if he could remember anything humorous that really stood out over the years as a legislator, he told us the following story:

*When I was first elected in 1996 at the age of 23, I weighed 145 pounds and had a full head of hair. As I bounded off of the elevator early one morning, I was greeted by a veteran legislative secretary. She said to me, "You sure are here early for an intern." I replied, "Yes ma'am, but I'm kind of running late for a representative!"*

State Representative Jason Mumpower was born in Bristol, Tennessee, on September 22, 1973. He is currently serving his sixth term in the Tennessee House of Representatives from district three, which includes a large portion of Sullivan County and all of Johnson County. First elected to office at age 23, he currently serves as House Minority Leader, a position to which he was elected by his House Republican colleagues.

During his tenure, Representative Mumpower has been a strong advocate for accountability in government spending, more local control over education, TennCare reform and Right to Farm legislation. As a member of the Finance, Ways and Means Committee, he has used his business and economic background to make Tennessee a "business friendly and

taxpayer friendly" state.

As a member of the Republican TennCare Reform Task Force, Representative Mumpower helped originate legislation working towards reform of the health care program. He was also one of the original sponsors of "performance-based budgeting" legislation that linked accountability measures to government spending in order to identify waste.

Mumpower has a reputation for being available to help the people of the third legislative district with a wide variety of state government needs and services. He also continuously conducts public "listening meetings" and questionnaires to get input from constituents on state issues and other legislative concerns. He has been vigilant to make sure the people of his district are informed on legislative business through a number of means like his weekly legislative updates, which are widely distributed.

A graduate of Bristol Tennessee High School in 1991, Representative Mumpower continued his education at King College where he graduated in 1995 with a major in Economics and a minor in Political Science. He is employed by The Corporate Image, a Bristol, Tennessee, based Public Relations firm.

Representative Mumpower was kind enough to take time out of his busy schedule to answer the following questions for the Tennessee HomeBuilder magazine:

**1 You have sponsored several bills on the subject of Workers' Compensation. Many of the bills relate to the relationship between contractors and sole proprietors. How involved should government be in regulating who should be covered by Workers' Compensation and why?**

I believe that workers compensation is important—for the protection of both employees and employers who may be



## Interesting Facts about Representative Mumpower's Hometown, Bristol, Tennessee:

injured while on the job. The worker's compensation system is supported by an intricate web of employers, and one anomaly in one area of the web can affect other areas that seem as though they should be unaffected. Therefore it's important to make sure we have a system that supports itself, and does not leave employers vulnerable to runaway costs if an injury is incurred.

We have a system in place by which a worker's compensation certification can be received, but the certification itself is essentially worthless. In order to support the entire system, it has been my sense that more than a simple certification is necessary to protect employees, employers, and the entire system.

**2** Immigration has been a topic of great interest throughout the nation. You have been involved with the "Tennessee Taxpayer and Citizen Protection Act." How important do you view worker verification and who should be responsible for the verification process?

In my 12 years representing the 3rd District, I have learned that the people I represent have become very concerned with the issues caused by illegal immigration. In that vein, I have been trying, as a member of the House of Representatives to help address those problems.

We need to ensure that illegal aliens are not receiving public benefits, which puts a strain on our economy. We also need to ensure that illegal aliens do not have the right to vote. These are two measures I have spent considerable time working on in my 12 years in the House.

I believe it is the responsibility of the federal government to provide verification of an illegal alien's status. A simple verification process must be adopted on the federal level whereby employers can quickly and easily verify the status of potential employees. I do not think that employers should be held responsible for identifying fraudulent documentation—this places an undue burden on employers.

—Continued on page 25



Jimmie Rodgers  
*The Father of Country Music*



The Carter Family

### "Birthplace of Country Music"

Nashville is known as "Music City USA," but Bristol is considered to be the "Birthplace of Country Music" according to a resolution passed by the U.S. Congress in 1998 for its contributions to early country music recordings and influence.

In 1927, record producer Ralph Peer of Victor Records began recording local musicians in Bristol to attempt to capture the local sound of traditional 'folk' music of the region. One of these local sounds was created by the Carter family. The Carter family got their start on July 31, 1927, when A.P. Carter and his family journeyed from Maces Springs, Virginia, to Bristol to audition for Ralph Peer who was seeking new talent for the relatively embryonic recording industry. They received \$50 for each song they recorded. That same visit by Peer to Bristol also resulted in the first recordings by Jimmie Rodgers.

### "Bristol Motor Speedway"

NASCAR fans have made Bristol Motor Speedway one of the most popular tracks anywhere. The skills needed for driving on the short track at Bristol have been compared to flying fighter jets in a school gymnasium.

Bristol Motor Speedway almost opened in 1961 under the name of Piney Flats, according to Carl Moore, who built the track along with Larry Carrier and R.G. Pope. However, the idea met local opposition, so the track that could have been called Piney Flats International Speedway, was built five miles down the road on Highway 11-E in Bristol.

The land, upon which Bristol Motor Speedway is built, used to be a dairy farm. Larry Carrier and Carl Moore traveled to Charlotte Motor Speedway in 1960 to watch a race, and it was then they decided to build a speedway in northeast Tennessee. Thus, the famous Bristol Motor Speedway was born!





# 2008 Spring Legislative Conference & Board of Directors Meeting

Hilton Suites, Nashville, TN

The Home Builders Association of Tennessee held its annual Spring Legislative Conference in March with special guests and events that made 2008's Conference one of the most successful meetings ever.

Stuart Brunson, the Deputy Governor of Tennessee, was kind enough to speak with the HBAT during a special luncheon. He shared the goals and objectives of the current administration, and we would like to thank Deputy Governor Brunson for taking time out of his busy schedule to speak with our association.

Jared Mathis, the NAHB Senior Director of Affiliate Services, presented education programs dealing with important issues such as running effective meetings and taking your association from "good to great."

On Tuesday night, after a day on the Hill in Nashville, our members and legislators gathered for a "Grand Introduction" of the HBAT offices. The evening was a great success with everyone enjoying great food, music, beverages and a time of casual fellowship in our beautiful, new offices.

The Home Builders Association of Tennessee would like to thank everyone who helped to make the 2008 Spring Legislative Conference an incredible success!

*\*We urge our members to continue to stay in touch with their local legislators to let them know how important issues affect their businesses. Our industry is one of the strongest segments of our state's economy, and we must remain knowledgeable and vigilant of economic and legislative factors that have favorable or adverse effects on the far reaching contributions of home builders.*











# Preserving and Enforcing a Lien Under the Revised Tennessee Lien Law

By Stephen A. Lund

**O**n May 18, 2007, the General Assembly passed a revamped version of the Tennessee lien law. This article will provide a brief summary of the process of preserving and enforcing a lien under the revised law.

Under the old statute, a contractor had to strictly comply with the statutory requirements in order to preserve their rights to a lien. Because the lien law is fairly complicated, it was very easy for a contractor to lose their lien rights, even though they substantively followed the requirements of the law. Thankfully, the revised law eases the requirements so that a contractor who substantially complies with the law will preserve their lien rights. The steps a contractor must follow to preserve their lien rights depend on whether they are a prime (general) contractor or a remote (sub) contractor.

A prime contractor performs work or provides materials or services pursuant to a contract with the owner of the property, whereas a remote contractor performs work or provides materials or services pursuant to a contract with someone other than the owner of the property. Typically, remote contractors have no lien rights on residential real property. However, if the owner of the property does not intend to live on the property, then remote contractors do have lien rights.

The changes in the lien law most affect remote contractors. One matter that did not change is that a remote contractor must first provide the owner **and** general contractor with notice of non-payment. The revised law clarifies that a remote contractor must provide notice of non-payment (except for retainage) within 90 days of the last day of *each* month which the remote contractor performed work and for which the remote contractor intends to claim a lien. If the remote contractor does not provide timely notice, they lose the right to claim a lien. For example, a subcontractor performs work in April, May and June and is not paid for the work. In August, the subcontractor gives notice of non-payment for all of the work. The subcontractor has lost their lien rights for the month of April, since they gave notice more than 90 days after April 30.

However, they may still claim a lien for the work in May and June.

After providing notice of non-payment, a remote contractor must record and serve notice of their lien. In order to preserve their lien rights, a remote contractor must record a notice of lien in the county where the property is located *and* must serve notice of the lien on the owner of the property. Under the revised law, the deadlines for the remote contractor to record and to serve the notice of lien are the same, no later than 90 days after the date the project is completed or abandoned.

A prime contractor has a much easier process for preserving their lien rights. The prime contractor automatically has a lien against the owner's property and does not need to give the owner notice of non-payment or notice of lien. This lien continues for a period of one year after the project is completed or abandoned. However, in order to preserve the prime contractor's priority over subsequent lienors, the prime contractor must record a notice of lien in the county where the property is located within 90 days of the date the project is completed or abandoned.

Even if a contractor jumps through all the above hoops, they must still file suit to perfect and enforce its lien. A remote contractor must file suit within 90 days from the date they served the notice of lien on the owner of the property. A prime contractor must file suit within one year of the date the project is completed or abandoned. If the contractor has followed the appropriate steps, and is successful in the lawsuit to enforce the lien, then the court may order the property sold and the proceeds paid to satisfy the lien.

Although the revised lien law has simplified the process for preserving and enforcing a lien, there are still many ways a contractor can lose their lien rights. Consultation with an attorney is strongly recommended.

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*Stephen A. Lund is an attorney with Tune, Entrekin & White, P.C. and focuses primarily in the areas of construction, property and general business litigation. He can be reached at [slund@tewlawfirm.com](mailto:slund@tewlawfirm.com)*

## Builders Mutual Returns \$181K in Dividends to TN Policyholders

**Raleigh, NC, March 31, 2008** – Tennessee builders and subcontractors insured by Builders Mutual will receive some welcome good news this week.

The company is distributing \$181,000 in dividends to nearly 700 eligible workers' compensation policyholders in the state as a result of lower than expected workers' compensation claims in 2007. Policyholders will receive checks this month.

Builders Mutual is the insurance resource for residential and commercial builders and subcontractors in North Carolina, South Carolina, Virginia and Tennessee. Providing not only residential and commercial coverage, Builders Mutual also offers safety programs and education to help builders reduce losses and qualify for dividends.

"Reducing injuries is the right thing for business – the people and the bottom line," said Mike Gerber, vice president and chief marketing officer. "Builders Mutual is in the business of helping our policyholders avoid injuries whenever possible and helping them recover when they have one. This dividend is a direct result of policyholders paying strict attention to the risk management of their respective companies."

Builders Mutual's WorkSafe program helps builders and subcontractors improve safety at job sites and reduce injuries, workers' compensation claims and company costs. Thanks to our policyholders' active participation in the WorkSafe program, Builders Mutual has returned nearly \$36 million in dividends since 1984.

Eligible policyholders in all four states will receive a dividend from Builders Mutual. The total distribution is \$3 million, the largest return since 2001.

"As a mutual company, Builders Mutual is owned by its policyholders," said Gerber. "The company is proud to distribute dividends to policyholders who display that consummate commitment to worksite safety."



# Home Builders Association of Tennessee 2008 Annual Summer Board Meeting Destin, Florida



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### Catch the Wave of Fun and Excitement

by registering today for the 2008 Annual Summer Board Meeting in beautiful Destin, Florida. It's a great time for members to get together and talk about the important issues that affect our industry. We will be taking care of business with our committees and education programs, but there will also be plenty of time for sun and fun!!!

Summer Sports Update: Each year, our members represent their region of Tennessee in a highly professional and competitive volleyball game that can make even the 2008 Beijing Olympics pale in comparison. There can only be one Summer HBAT Volleyball Championship team, so come prepared for the thrill of victory - and if the sand is really hot - the agony of "de feet."

***If you do not have internet access, please call the HBAT offices at 615-777-1700.***



In each issue of the  
Tennessee HomeBuilder  
magazine, we ask  
important legislative  
questions concerning  
issues that affect the  
building industry. This  
month Representative  
Joe McCord talks about  
establishing a common-  
sense approach to water  
resources in Tennessee:

# In Their Own Words

## Let's End Confusion, Speed Permit Process

By State Rep. Joe McCord • March 28, 2008



I represent Blount County in the Tennessee House of Representatives, and my constituents are sensibly conservative, hard-working and fair. Those of us who live in the shadow of the Smoky Mountains understand land, water and resources. We know these plentiful resources nurture us, and that it is important to be good stewards of this land that was bestowed upon us.

The people of my district—who love this land at least as much as the out-of-town environmentalists tell them they should—have indicated to me that when it comes to the regulations of clean water, the laws are convoluted and confusing. That's why I am the sponsor of three bills this year that would set clearer boundaries for the Tennessee Department of Environment and Conservation, that would make the agency more accountable to the people they should be helping; and, therefore, an agency that the people feel they can place their trust in 100 percent.

### Define Ditch vs. Stream

This legislation stands for a truth that is neither conservative nor liberal, Republican nor Democrat. When the state makes and enforces rules, people need to know what the rules are and how to follow them. At its core, this bill is an effort to give a common-sense understanding to what defines a ditch and what defines a stream. We need to be able to consistently identify these differences without the assistance of a biologist or a chemistry set. My objective is to work with the department, and those in my district, to clear up any misunderstandings in the law, which tends to be ambiguous.

In response to my bill, TDEC's administrators have assured me they are trying to do the right thing, and I believe them. But I also understand the concerns from citizens: *If the rules aren't clear, it is difficult to follow them. If lines of accountability aren't established, no one is accountable.*

I have a lifelong friend who is an environmental lawyer and, from our conversations, I have come to appreciate that this is a difficult situation. I respect the position of my friends in the environmental community.

I represent farmers who want to build ponds so their livestock will survive a drought. I speak for our property owners who want a home for their family, but need TDEC's approval to grade an acre of land. I introduced these bills for small-business owners who apply to TDEC for permits to manage storm water, and wait for months in a process that not only is distressing for constituents, but also the department. In other words, I believe the process is much too complex.

This legislation would ensure that the rules are clear for everyone. Clear water standards are good for the regulators, the regulated and the environment. When we are all on the same page, standards and results improve.

Recently, we have had discussions with the department about these problems, and they recognize some of the confusion this creates. We will continue working together through these complex issues, and I hope we can come up with a common-sense and reasonable solution.

State Rep. Joe McCord, R-Maryville, represents District 8, including parts of Blount and Sevier counties.

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# Did You Know

## NAHB ADVOCACY NEWS

### Construction Liability & Legal Research Department

*There is a wealth of information available from the National Association of Home Builders – Membership Advantage discount programs, NAHB University of Housing educational programs, Legislative and Building Industry News and much, much more.... Log on to [www.nahb.org](http://www.nahb.org) and find out what NAHB has to offer!*

#### 14 STEPS TO PREVENT LIABILITY PROBLEMS

- \* Comply with all licensing laws.
- \* Use a well-written contract for all transactions in the sales and construction process. All parties to the contract should read and understand all provisions before signing the document.
- \* All documents referred to in the contract, or incorporated by reference into the contract, should be attached to the contract.
- \* Make a strong commitment to customer service. Such a commitment involves conscientious customer relations, quick follow up on punch lists and callbacks, and in some cases correcting the problem promptly (even when you are not at fault) because that course probably would prove less expensive than litigating the matter later.
- \* Where applicable, all documents should be signed in the name of the corporation. Do not sign in your individual capacity.
- \* Regularly examine your insurance program to make sure it is comprehensive. Fill in any gaps in insurance coverage.

- \* Develop realistic construction schedules that allow enough time to do the work well, for any interruptions that might be caused by the anticipated weather, and for minor unexpected problems with deliveries.
- \* Make only promises you can keep and keep those you make. Screen brochures, advertising, and other marketing devices for unintended promises or warranties.
- \* Obtain signed change orders (showing the price and any extension of the completion date) for any alterations to the original construction plans, specifications, or other aspects of the job.
- \* Use indemnity clauses in contracts with design professionals and subcontractors (Indemnity means shifting financial loss from the one required to pay it to the party that caused the loss. Indemnity rests on the premise that one party has been compelled to pay money that in justice another person ought to pay).
- \* Disclaim implied warranties or obtain waivers of such warranties where permissible.
- \* Avoid environmental warranties.
- \* Consider alternative dispute resolution

- techniques, such as arbitration or mediation, in lieu of litigation.
- \* Hire a lawyer who understands the construction business.

#### 6 MORE STEPS TO PREVENT LIABILITY PROBLEMS

- \* Keep written records of all important project documents, such as executed contracts, invoices and change orders.
- \* Confirm in writing all oral communications regarding the course of the project, like the time, the scope and the price of the job.
- \* Respond in writing to all written claims of the owner or the architect accusing you of faulty workmanship or some improper conduct. A judge or an arbitrator may construe your silence as agreement or acquiescence.
- \* Keep a central file of all project paper on a day-by-day basis so that there is one complete record of all project documents and correspondence.
- \* Comply with all notice and other procedural requirements specified in the contract.



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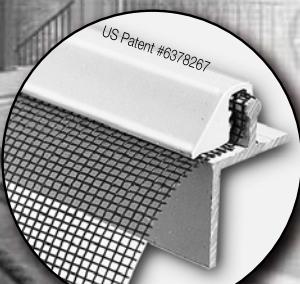
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# NEW PRODUCT REVIEW

This month we focus on products **Especially for Builders!**

## LOOKING FOR SUPPORT – Try T-Brace!



T-Brace was designed especially for the professional contractor and construction worker who needs the ability to span further and give more load capacity to the walk board or scaffold plank, along with minimizing deflection and without the use of intermediate bracing. T-Brace can be used with ladders, ladder jacks, pump jacks, saw horses and scaffolding. The benefit you get with T-Brace is easy set up and break down, less money out of pocket, use of materials normally found on the job site and the convenience to transport it with ease due to its size. This versatile and durable product is ideal for any contractor who works in remodeling, stucco, painting, masonry, or siding.

## Hammer Time! Makita Introduces New Rotary Hammer Drill

**Makita 1-9/16" SDS-MAX Rotary  
Hammer with AVT Technology**



## Model HR4010C Anti-Vibration Technology

The 1-9/16" SDS-Max Rotary Hammer, model HR4010C features AVT Technology with 2X less vibration at only 4.5 m/s<sup>2</sup> plus produces 2,750 blows per minute. Model HR4011C produces an impressive 11 AMPS with 9.5 joules (7.0 ft.lbs.) of impact energy and has synchronized RPM and BPM to prevent overlapping impacts for up to 50% more efficient drilling. A variable speed dial with 5 different preset speeds and electronic speed control minimizes speed loss for 28% faster drilling.

## A Cool Idea from Milwaukee

### Milwaukee Introduces New Ice Hardened™ Sawzall® Blades

Milwaukee Electric Tool Corporation has recently introduced new Ice Hardened™ Sawzall® blades, a new generation of reciprocating saw blades that offer up to 50% longer life than the competition and are ideal for metal cutting in a wide variety of HVAC, electrical, plumbing and maintenance/repair applications. Milwaukee Ice Hardened™ products utilize a proprietary cryogenic hardening process that improves upon traditional heat treating processes. Unlike surface coatings that wear away, cryogenics harden to the core by minimizing soft metal (austenite) and creating more hard



metal (martensite). The result is a product that is more consistently hard throughout, resulting in life up to 50% longer than the competition.

## Born To Run – Impressive New Generators from Milwaukee

### New Milwaukee Heavy-Duty Portable Gas Generators Introduction



### Milwaukee Introduces New Line of Gas-Powered Generators

**MILWAUKEE, WI** – Milwaukee Electric Tool Corporation has also introduced a new line of heavy-duty, gas-powered generators that are designed to deliver reliable power, exceptional durability and unmatched performance to the professional trades. This new line includes a 4,300-watt (model 4943-24), 5,000-watt (model 4950-20), 6,000-watt (4960-24) and 7,000-watt (4970-24) generator, providing a complete Milwaukee solution to the most common jobsite power demands.

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*Continued from page 15—*

## Jason Mumpower - House of Representatives Minority Leader



*Rep. Jason Mumpower and Lieutenant Governor Ron Ramsey take a moment to visit.*

### 3 From your perspective, how important is the home building industry in regards to keeping Tennessee's economy strong?

I feel that the home building industry is of vital importance to Tennessee's economy. Home building is literally the bedrock upon which our state and our nation sit. Evidence is seen of this effect when economists discuss the state of the nation's economy—one thing that is frequently cited is new home sales.

### 4 During this Session, you filed a bill that would prohibit TDEC from conducting environmental investigations based solely on an anonymous complaint. Why do you feel it is important to identify the source of a complaint before an investigation begins?

This bill grew out of a situation that I had occurring in my district where groups of adjoining landowners were calling in anonymous complaints on one another just to be spiteful. And despite these complaints being anonymous, TDEC had to dispatch someone to investigate every time. Investigating these frivolous complaints was a waste of taxpayer money and resources.

TDEC acknowledged that these frivolous complaints were a problem specific to the community I represent. I have since solved the problem with TDEC through an agreement, and was able to withdraw the bill.

### 5 Are there any final comments you would like to make to members of the Home Builders Association of Tennessee?

I want to say how much I appreciate the home builders and the home building industry. I have been very fortunate in my 12 years in office to have had a spectacular relationship with you. I sincerely appreciate that you provide quality housing for Tennessee's families, the philanthropic work you continue to do, and the foundations you have built in our communities. I am grateful for this relationship, and I want to do everything I can in the legislature to make sure your industry is able to grow and prosper. ❖

*The HBAT thanks Representative Jason Mumpower, and his staff, for their time and assistance with this article.*

# Is it Easy Being Green?

**T**he National Association of Home Builders' (NAHB) Model Green Home Building Guidelines are about to celebrate their second birthday. Designed to help bring residential green building into the mainstream, the Guidelines also demystify the process and debunk the myths of green building for consumers – and for home builders.

Using the Guidelines, local home building associations are creating regionally appropriate green building programs for interested builders, and that interest is growing rapidly. Twelve state and local associations have launched voluntary green building programs, with another dozen on the way.

The Guidelines include an easy-to-follow checklist to make sure the builder is incorporating all aspects of green building into each project. That makes it easier to build green – and that's the beauty of the voluntary Guidelines.

## Is it more expensive to build green?

Experienced builders say it doesn't have to be. Guidelines-based programs award points for resource efficiency, and if you're using fewer materials, you're saving money, they point out. And some green building ideas – like positioning a home's windows to best take advantage of natural light – don't cost any more than conventional building – and save money for the homeowner.

There are more green building products than ever. Easier to use insulation, chemically neutral paints and flooring and natural landscaping prod-

ucts are no longer difficult to find. Most home-improvement stores carry a full line of compact fluorescent bulbs, which use 70 percent less energy, and advances in solar roof panels and shingles, wind turbines, and efficient appliances make green technology less expensive than even a few years ago.

But there are scattered gray clouds on a mostly green horizon. Efforts to mandate green building are the perfect example of good intentions gone awry. Green building needs to stay voluntary to continue to allow for market innovation and to make sure that the additional money spent to build 'green' goes to building improvements, not excessive certification fees. NAHB discourages efforts to dictate and legislate what constitutes acceptable green building practices because the building science in this area is still evolving. We don't want to see this dynamic process frozen in place.

*Homebuyers don't have to wait that long to learn more about being green: download a free guide at [www.nahb.com/greeninnovation](http://www.nahb.com/greeninnovation).*





# Pointer

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# LOCAL HAPPENINGS

## Dupree, Campbell win top Home Builder Awards

Friday, April 4, 2008

**KNOXVILLE**—The Home Builder Association of Greater Knoxville recently honored Julie Dupree and Robert Campbell Jr. with its top awards for 2007.

Dupree, of Dupree-Graf Construction, was named Builder of the Year, and Campbell was named Associate of the Year.



Julie Dupree

Dupree, a second-generation builder, has been an HBAGK member for three years. She became actively involved in all aspects of the association – from

advocacy to community service – notes Kathryn Lewis, HBAGK executive vice president.

Dupree joined several HBAGK committees, including the Parade of Homes, builder's council and government affairs. She has chaired the Parade of Homes committee and HBAGK's Toys for Tots drive, which yielded more than 2,000 toys in its largest drive ever, Lewis says.

Dupree was also elected to the board of directors last year. She has worked with the Association to help find solutions to copper wire thefts affecting area builders.

As a builder, she won a gold award for her own Parade home.

"The award isn't just about homebuilding," Lewis adds. "It's about supporting the industry that supports you and giving back to the community. Our Builder of the Year has done all that and more."

Campbell was named Associate of the Year for his "generous" donation of time,

Lewis says, noting that he spent numerous hours pouring over tedious details of the storm water ordinance that was accompanied by a 900-plus page manual.



Robert Campbell, Jr.

ing other associates to understand the details," she says.

During the gathering, Brian Shugart was installed as president for 2008. Other officers are Vice President Tim Neal, Secretary/Treasurer Greg Reynolds, Associate Vice President Dennis Sewell and immediate past president Tom Mason.

Local directors are Al Bintz, Denise Dorsey, William Duffey, Julie Dupree, Randall Heiden, Mike Hillman, Chris Knight, Andy Shannon, Richard Swan, Steven Walling, Doyle Webb and Ron Worley.

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The Home Builders Association of Tennessee would like to congratulate Middle Tennessee State University for being named a recipient of a grant through

the Homebuilding Education Leadership Program (HELP), the cornerstone of the National Housing Endowment education effort.

MTSU has a dedicated Residential land Development curriculum, the only school in the nation to have this unique program. They will use the "HELP" grant to fund support of additional faculty and has committed to pay for new faculty after the grant expires. The total impact of the grant is over \$350,000 for the program and industry partners will participate in matching funds.

The National Housing Endowment, the philanthropic arm of the National Association of Home Builders (NAHB), will help the housing industry develop more effective approaches to home building, enhance the ways it educates and trains future generations of leaders in residential construction and increase the body of knowledge on housing issues through education, training and research.

## 2008 Scholarship Winners Announced

The Home Builders Association of Tennessee has announced the 2008 Tennessee Associates Committee Scholarship recipients. Each recipient has been awarded \$500 from the HBAT and their local associations will match the original amount for a total scholarship of \$1,000 per student.

Recipients met the criteria set forth by the Tennessee Associates Committee and are pursuing degrees in the construction management field. See this year's recipients on the following page.\*

The HBAT was pleased to receive a record number of qualified applicants year. Congratulations to all the winners!

*\*See page 29 for a list of this year's recipients.*





# ASK THE ACCOUNTANT

## My Two Favorite Tax Deductions?

by Bob Bellenfant



**A**s the annual tax filing season ends, my thoughts usually consist of how I can make the process smoother for my office and

for my clients. A common thought is the idea of planning. Tax planning properly done creates a better outcome from the process of filing income taxes with the state and federal government. I have been asked many times during this filing season “can you think of anything else I can deduct... what are we missing?” The time to ask these questions is throughout the year – not when you are surprised by your income tax liability.

My two favorite tax deductions consist of pension deductions and equipment expensing. Pension deductions are a favorite because a tax deduction is created by increasing your retirement savings. While it is true that there are many limitations to the withdrawal of pension funds, there are such a large variety of plans from which to choose that at least one would suit a particular situation. The benefit of all of the plans consist of the ability to shift income from a higher tax bracket during your working years to a lower tax bracket during retirement years while your retirement investments are growing. No taxes are incurred while your retirement assets

remain in the plan. Opportunities exist for an employer to maximize his or her own pension and those of the employees without incurring significant administration expenses.

Popular pension choices vary from a simplified employer plan or SEP for a business with one owner employee to a savings incentive match (SIMPLE) plan for an employer with many employees. A larger employer might choose an altogether different pension plan. The point is that there is a suitable pension plan for each situation. The options are generally weighed for the benefit of the owners in a small business. A proper selection can lead to a lifetime benefit. An improper selection can be expensive, so choose wisely and revisit your choice every couple of years as the laws can change.

Equipment expensing allows most small businesses the ability to “write off” or deduct the acquisition cost of equipment rather than depreciating the cost over its useful life. Equipment consists of personal property used in a business activity. More importantly for the homebuilder it includes trucks, primarily standard pickup trucks and larger. The amount of expensing limitation for 2008 is \$250,000 which is double the 2007 limit of \$125,000. There are strict limitations on expensing of other vehicles such as automobiles and SUV’s. Each purchase should be analyzed separately by your accountant to maximize your deduction.

Pension and equipment expensing – my two favorite deductions. There are opportunities for every homebuilder.

*Bob Bellenfant is a certified public accountant with Bellenfant & Miles, P.C. CPA’s in Brentwood, Tennessee. He has served homebuilders and other construction related businesses in Tennessee for over twenty years. You can reach him at (615) 370-8700, extension 12 or by e-mail at bob@bellenfantmiles.com.*

### 2008 SCHOLARSHIP WINNERS ANNOUNCED

**Raymond Lee Savoy**  
Rutherford Co. HBA  
MTSU, Construction Management

**Angela Terri Massengale**  
Ocoee Region BA  
Cleveland State Community College,  
Construction Technology

**Robert E. Busted**  
Rutherford Co. HBA  
Land Development & Construction  
Management

**Adam Sawyer Blick**  
Clarksville Montgomery Co. HBA  
MTSU, Construction Management

**Heather Sara Podbielski**  
HBA of Southern TN  
Chattanooga State Technical Community College, Construction Engineering

**Nicholas August VanderVoort**  
Memphis Area HBA  
UT Knoxville, Civil Engineering

**Joshua Parsons**  
Memphis Area HBA  
MTSU, Construction Management

**Steven Blake Amos**  
HBA of Middle TN  
UT Knoxville, Construction  
Management

**Christy Lynn Burns**  
HBA of Middle TN  
MTSU, Construction Management

**Timothy G. Stevens**  
HBA of Middle TN  
MTSU, Construction Management  
Technology

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## Future HBAT Meetings

**2008—**

### Summer Meeting

July 13 - 16, 2008

Hilton Sandestin Beach Golf Resort & Spa  
Destin, FL

### Fall Meeting

October 30 - November 1, 2008

Crown Plaza  
Knoxville, TN

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