



# Legal news & views

Issue III

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Dear Brian,

Thank you for reading **news & views** from Kenney & Sams. We value your time and promise to keep the content brief, educational and direct. If you would like to discontinue receiving this type of communication, please unsubscribe below.

## Construction Owner Personally Liable For Construction Defaults Warranting c.93A Damages; Lienholder Denied Claim Because Resulting Damages Meant No Money Due To Contractor At Time Of Lien.

Michael P. Sams, Esq.  
Kimberly A. Alley, Esq.  
Kenney & Sams, P.C.

### **\$470,205.29 Verdict; c.93A Damages; Judgment Against Lienholder**

The plaintiff company is the developer of a 31 home active adult single family home condominium community in Hingham, Massachusetts, known as Ridgewood Crossing. In 2005, the plaintiff developer contracted with Ridgewood Custom Homes, Inc. ("RC Homes") to construct the first 5 model homes of the development, which were to be completed by the spring of 2006. Laurie Dickey, vice-president and treasurer of RC Homes, signed the

## Franco and Calandrelli Join Kenney & Sams

Kenney & Sams, P.C. is pleased to announce that Thomas M. Franco and Joseph P. Calandrelli have joined the firm.

Tom is a Phi Beta Kappa Magna Cum Laude Graduate of

construction contract.

As a result of internal and financial problems, which included a divorce between its principal officers, William and Laurie Dickey, RC Homes experienced construction delays and failed to substantially complete the first 5 Ridgewood Crossing homes by the spring of 2006. Mechanics liens were also asserted after RC Homes failed to pay its subcontractors and suppliers. In response, the plaintiff developer met with Laurie Dickey, who assured the plaintiff that the 5 homes would be completed and that Dickey would use a different corporation, Blackwood Development Corp. ("Blackwood"), that she owned exclusively without her ex-husband, to complete the Ridgewood Crossing homes. Based on Dickey's representations, the plaintiff company contracted with Blackwood for construction of additional homes, and Laurie Dickey executed a personal guarantee for the performance of all the work.

Despite the personal guarantee and new Blackwood contract, the Ridgewood Crossing homes remained incomplete and behind schedule by June 2006. Purchase-sale agreements were delayed, vendors and suppliers remained unpaid, and by July 31, 2006, no workers appeared on the job site. Despite this, Laurie Dickey's newly formed Blackwood company purchased an \$80,000 Mercedes for her to drive and Ms. Dickey maintained an oceanfront Chatham vacation property.

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## Are Residency Requirements Legal?

David R. Kerrigan Esq.

With the current economic conditions, the mantra of most every business, union, or political leader these days is jobs, jobs, jobs. Local political leaders face the harsh reality that they have little control over the local unemployment rates affecting their constituents. One way for cities and towns to attempt to address this issue includes requiring contractors performing work on local construction projects to hire local residents. But are these types of local residency requirements legal?

Local residency requirements for construction projects face a long and difficult road to be deemed constitutional. For instance, both the U.S. Supreme Court and the Massachusetts Supreme Judicial Court have found residency requirement ordinances to be unconstitutional under a little known clause known as the Privileges and Immunities clause, which states that "[t]he citizens of each State shall be entitled to all the Privileges and Immunities of Citizens in the several States." The founding fathers included this clause in our Constitution to prevent the citizens of one state from discriminating against citizens of other states.

The leading case addressing residency requirements arose in the United States Supreme Court which considered a residency requirement instituted by the City of Camden, New Jersey and the Court found that Camden's requirements unconstitutional. To reach this conclusion, the Court first found that employment by a private contractor to be a protected, fundamental privilege. The Court also rejected an argument that the ordinance only discriminated against residents outside of Camden, not out of state residents because adopting this reasoning would allow each city or town in one state to enact similar ordinances preventing citizens from other states from having equal access to jobs.

Connecticut College and a J.D. from Suffolk University School of Law. He was a Partner at Cogavin & Waystack in Boston, and served as Senior Trial Attorney at Long & Leahy.

Joe is a graduate of Dartmouth College and Northeastern University School of Law. He was previously associated with Prince Lobel in Boston.

They will both continue their practices in civil litigation and appeals.

### "DID I REALLY SAY THAT?"

**MASSACHUSETTS HIGH COURT SAYS DEPOSED WITNESSES CAN LATER CHANGE NARRATIVES, EXPLAIN RESPONSES, AND COMPLETELY REVERSE ANSWERS**

Depositions are hard for lawyers, but even harder for witnesses. The deposition - which allows the lawyer to sit a witness (the

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Kenney & Sams, P.C. will be hosting an informational seminar on Friday April 27th from 11am to 1pm. In this session you will learn:

- The do's and do not's of job postings and interviews
- How to create an offer letter and non-compete agreement
- How to conduct an employee evaluation
- How to manage the termination process

Space is limited. To register, email [events@kandslegal.com](mailto:events@kandslegal.com).

"deponent") down and ask nearly anything - is meant to make the trial "less of a 'game of wits' and more of a probing into the actual truth of certain facts." Kane, *Civil Procedure In a Nutshell*, 5th ed. (West Pub. Co., 2003), § 3-21, p. 129. But tell that to the one in the hot seat. Intimidated and befuddled by the onslaught of questions,

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