

INDIANA BUILDER NEWS

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Quarter 2, 2023



Vol. 60, No. 2

Issue Highlights



Celebrating a Legacy

Mike Hannigan Jr. celebrates his 50 years of membership with an interview with IBA.

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Steve Haughey
Environmental Practice
Group
Frost Brown Todd LLP

Update & Advice on WOTUS Rule

Four things IN builders should consider when dealing with WOTUS rule.

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Indiana Builders Association
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Indianapolis, IN 46204

Legislature addresses statewide housing challenges

The Indiana General Assembly adjourned for the year in late April, after a 4-month session dedicated to passing a new 2-year \$44 billion dollar plus budget and tackling numerous issues of interest facing Hoosiers. The Indiana Builders Association Governmental Affairs Team was active at the Statehouse during the session working with lawmakers to craft laws that positively impact the housing industry in Indiana.

IBA's legislative agenda for 2023 was robust in nature due to the numerous recommendations that came out of the legislative task force on housing in late 2022. IBA supported the findings of the Housing Task Force and worked with interested par-

ties and legislators to enact the recommendations from the Task Force. Most notably, was the passage of HB 1005 which created a residential infrastructure fund and included an expansion of the residential TIF statute in Indiana.

Other pieces of legislation included the passage of HB 1575, dealing with the Fire Prevention & Building Safety Commission, which promulgates the building codes for the state of Indiana. HB 1575 will provide needed improvements to the code adoption process and identify who serves at the pleasure of the Governor on this commission.

According to Ric Zehr, IBA President, "It was an extremely successful session for the housing industry. While we did

not get everything we were asking for, our state is poised to address the housing challenges we face through the actions of the General Assembly."

"The passage of HB 1005 has the potential to be a game-changer for the housing industry in Indiana. Every other state in the union is trying to address housing affordability/attainability in their respective states, and I think Indiana has hit a home run in addressing the issue by expanding the opportunities for communities to grow and bringing sorely needed housing options at every price point to areas that need it," commented Rick Wajda, IBA CEO. ■

Make plans to attend IBA's Summer Board & Committee Meetings

The Indiana Builders Association will host this year's Summer Board and Committee Meetings on Wednesday, May 17 at the Crowne Plaza Indianapolis Downtown Union Station.

The Crowne Plaza is a unique and historic hotel that also operates as an active train station. Listed on the National Register of Historic Places, the hotel features a convenient downtown location offering upscale modern amenities situated in the heart of Indianapolis. The 1-day event is an opportunity to connect and engage with

other leaders throughout the state in the homebuilding industry. The day includes a full schedule of committee meetings and lunch during the board of directors meeting. Find the full itinerary on page 10.

Don't miss the 1-hour overview of HB 1005 on how your community can utilize this new financing tool for housing infrastructure.

For more information and to register, visit <https://business.buildindiana.org/events> or connect with Savannah Ayres directly at savannah@buildindiana.org. ■



Crowne Plaza, Downtown Indianapolis

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President's Message

By Ric Zehr
The North Eastern Group

President,
Indiana Builders Association

Gratitude through growth

As I conclude my first quarter of the year as president, I want to express my gratitude for the incredible collaboration and support that make up the heart and soul of our organization. To fully convey this, I have to take you back 20 years when the leadership of the IBA convened to discuss an industry issue that required a legislative solution.

During this discussion, they realized that our home building industry and all related trades across the state needed legislators who were not only sympathetic to our issues but also worked daily in the industry as home builders, developers, electricians, plumbers, framers, cabinet makers, and more. Those who worked every day in contributing to produce housing in Indiana could fully understand the nuances of the issues we were facing. The leadership team began a strategy to solicit our membership to see if there were any who were willing to serve in the legislative process. Over the past 20 years, our members have stepped forward to serve their constituents and become those experts. With a part time legislature in Indiana, their commitment is truly a sacrifice of their time and energy. Today, we have gained legislators who are industry experts

in the elected body. They not only participate in the process of writing and passing good and effective legislation, but also act as subject matter experts to other legislators. This effort has resulted in representation not only for our members but also for unified groups that can promote the lifeblood of Indiana's economy in the form of the entire construction industry and the 2,700 members of the IBA who provide housing and drive economic success in Indiana.

In today's environment of uncertainty with much higher interest rates, inflation, and continued burdensome government regulations leading to significant increases in the base cost of housing, it has never been more important to ensure that the legislative environment is as consumer and builder friendly as possible. As the State of Indiana continues to move forward and attract companies from across the country to invest and relocate in our state, the question that will continue to rise to the front of that conversation is "What is your housing stock?" and "Where will our workforce live?". With an estimated shortage of 50,000 units across the state, it is crucial that we work together to address this issue. We must continue to advocate for poli-

cies that support the growth of the construction industry and the ability to build affordable housing options for all Hoosiers.

The other strength that I have seen across the state is the influence of our local associations. Without exception, the 20 local associations that make up the IBA, have members who are leaders participating in the same political process but on a localized county and municipal basis. Their efforts in their hometowns to provide housing and related services are critical to our success across the state.

Overall, the IBA has made significant progress in the past 20 years in building a strong and effective legislative presence. However, there is still much work to be done to ensure that the housing needs of Indiana's residents are met. We must continue to collaborate and support one another at a local and state level to promote the growth and success of our industry and our state. ■

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Indiana Builders Association

IBA debuts Hoosier Excellence Awards for outstanding building and remodeling projects

IBA is pleased to announce its inaugural awards program, the IBA Hoosier Excellence Awards, to recognize outstanding building and remodeling projects from across the state in a variety of categories.

The categories for IBA's Hoosier Excellence Awards will include:

Kitchen

- Best new kitchen, custom home
- Best new kitchen, production home
- Best kitchen remodel under \$50,000
- Best kitchen remodel over \$50,000

Bath

- Best new bathroom, custom home
- Best new bathroom, production home
- Best bathroom remodel, under \$40,000
- Best bathroom remodel, over \$40,000

Outdoor Living

- Best outdoor living (new construction or remodel)

Curb Appeal

- Best curb appeal, custom home
- Best curb appeal, production home

Additions

- Best addition (including seasonal rooms)

Open

- Best problem solved/We saved the day

Overall Home

- Best home, custom, under \$1 million
- Best home custom, over \$1 million
- Best home, production

Project submissions will open on August 1 for IBA members to enter their best projects for consideration. Entry is free.

IBA Hoosier Excellence Awards winners will be selected by an independent judging panel of building industry professionals and consultants.

Winners in each category will be announced on November 29 at a ceremony occurring in conjunction with the IBA's Leadership Conference.

Projects completed between October 1, 2022, and September 30, 2023, are eligible for entry. Start thinking about which of your projects you'd like to submit for an opportunity to be showcased on stage as an outstanding builder or remodeler in the state!

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Inside the Issue

By Rick Wajda
Chief Executive
Officer
Indiana Builders
Association

Indiana General Assembly approves several housing related initiatives

The Indiana General Assembly wrapped up its work for the long session in late April. The state passed a new two-year budget as well as several hundred pieces of legislation of interest to Hoosiers across the state. Of course, there were many more issues that didn't get resolved and some of those issues will resurface in summer study committees or be introduced again in the 2024 session.

As it relates to the home building industry, your Association was actively engaged in numerous issues this session to help the housing industry in Indiana to provide safe, affordable housing to Hoosiers. This comes at a time when housing costs are rising due

to build on. Add to the fact that Indiana has never fully recovered from the last recession in terms of building homes to meet demand and record low inventory which creates a perfect storm for housing.

In Indiana, we are not alone in facing these challenges, as states across the country are grappling with the same issues. However, we are well-positioned to get another leg up on the competition due to strong leadership at the state level from our elected officials who understand the importance of a strong housing industry to go along with the outstanding work our state has done to attract jobs and investment to all corners of Indiana.

“The residential housing infrastructure fund is a creative solution to address the housing crisis in our state that I think could position Indiana to further take advantage of bringing new employers to Indiana.” - Rick Wajda

to rising material costs, labor cost increases, inflationary pressures, and a shortage of lots available to

The Indiana General Assembly took up many of the recommen-

dations of the Housing Task Force that convened late last year to address the shortage of workforce housing in our state. An innovative approach to addressing this problem was the outgrowth of the Task Force and included in HB 1005.

HB 1005 creates a residential infrastructure fund for the state of Indiana and will provide funding for local units of government to access dollars to extend infrastructure in their respective communities to open up areas for development and bring housing at a price point Hoosiers can afford that otherwise might not get built.

This fund will assist in covering the ever-increasing costs of providing sewer/water and other infrastructure-related costs for housing developments that developers and builders currently pay for and have to pass along in the price of a new home.

The residential housing infrastructure fund is a creative solution to address the housing crisis in our state that I think could position Indiana to further take advantage of bringing new employers to Indiana. Initial funding of \$75 million dollars by the Indiana General Assembly and future

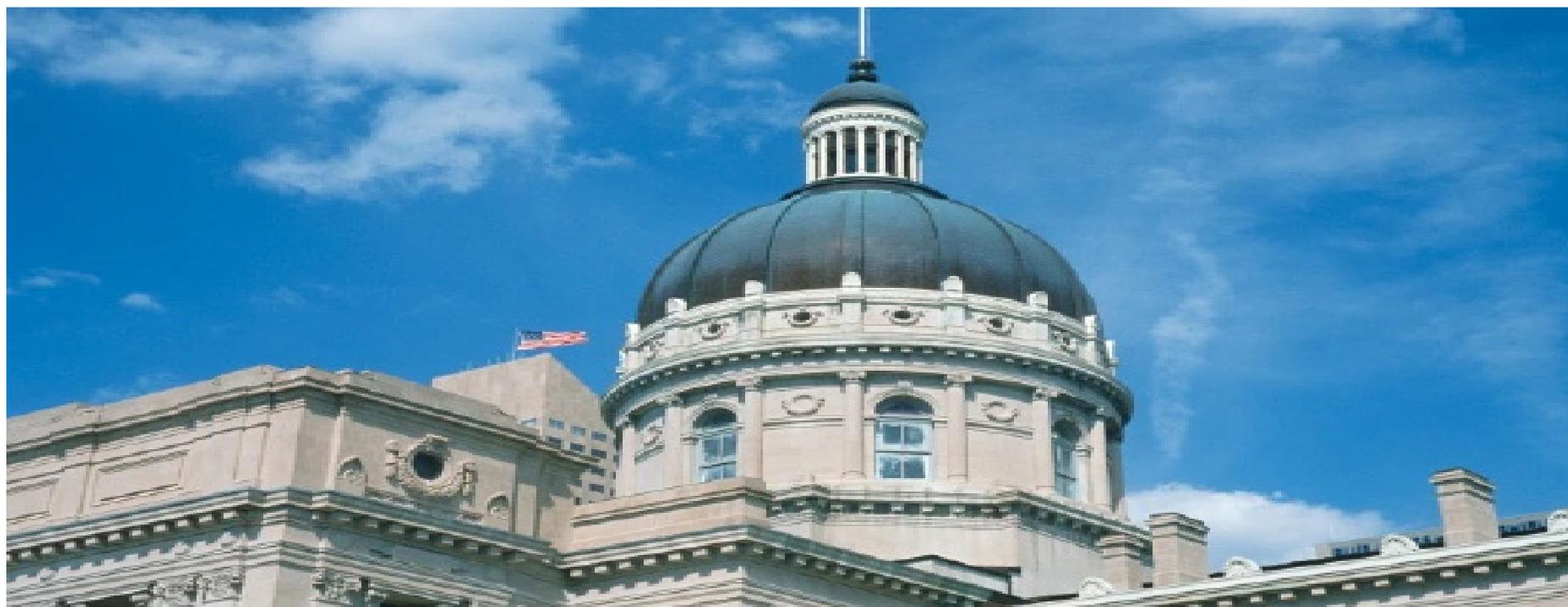
funding of the program could turn into over \$3 billion dollars allocated to the funding of infrastructure projects for housing over the next two decades.

There is no doubt in my mind that our competition will look to Indiana to emulate our program, but we will have a head start on making Indiana a place to do business with the accompanying housing for our workforce.

Along with HB 1005, other pieces of pro-housing legislation made their way through the General Assembly that I hope will provide long-term benefits for the housing industry in Indiana.

A special thanks goes out to all of the members who have engaged in the process this session, letting your State Representatives and State Senators know how we feel on issues of importance to our industry.

And thank you to the members of the Indiana General Assembly who have dared to be bold, innovative and creative to make Indiana the best it can be. If we can find a way to bring more housing to market at a price Hoosiers and those soon to be Hoosiers can afford, the sky is the limit for making Indiana a place people will want to live and work. ■





Local Association
Spotlight:



NWI 2023 Board of Directors



President, Bob Micunek



Treasurer, Jolanta Moore



Secretary, Zach Garza



EO, Christine Neal

In 2011, two of Indiana’s largest local HBAs in northwest Indiana – BIA of Northwest Indiana and Porter County BA – consolidated to form the Home Builders Association of Northwest Indiana (HBANWI).

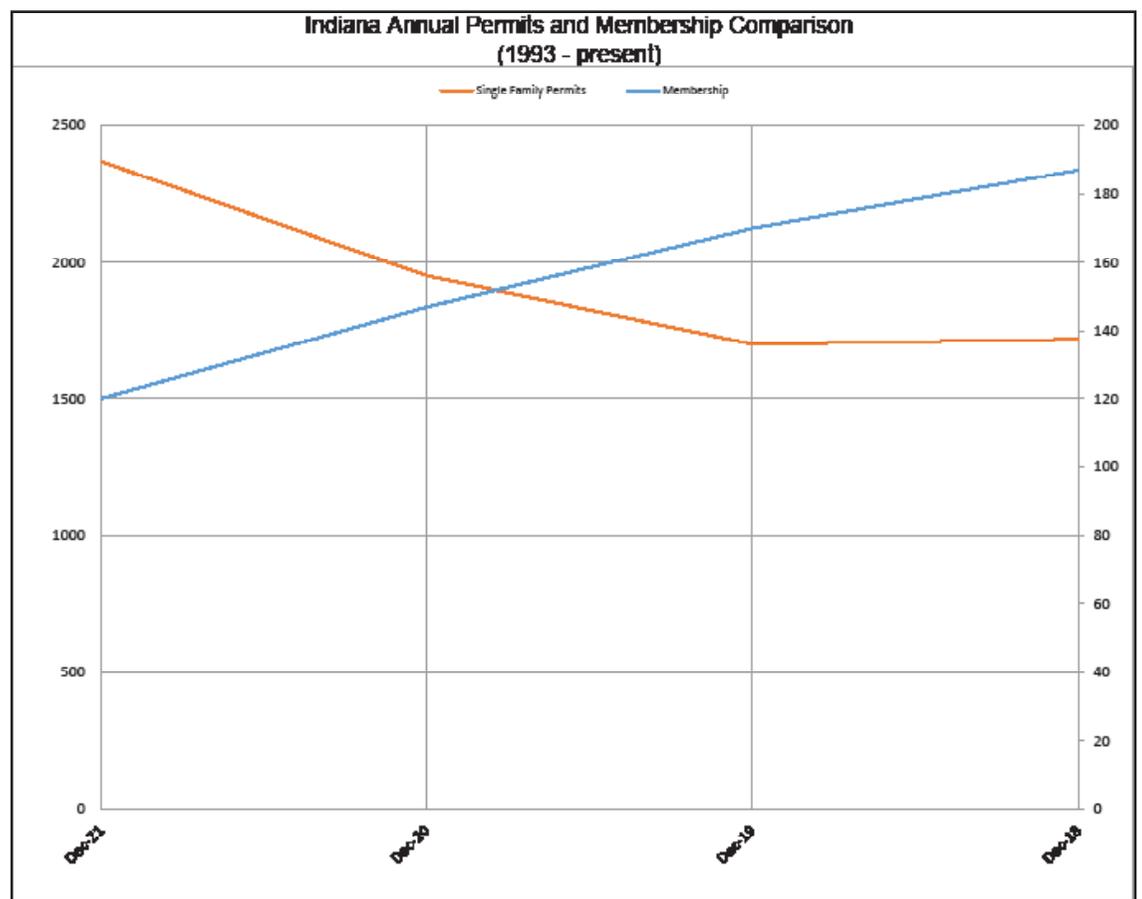
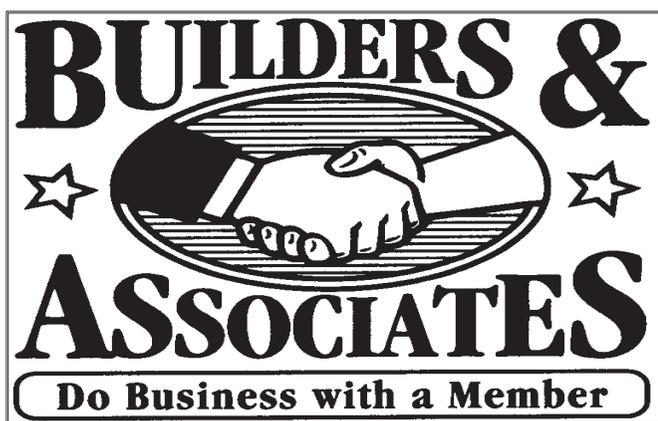
Serving Lake and Porter counties, the HBANWI has over 120 members and is poised for growth as it offers members educational opportunities, casual gatherings like Network & Chill nights, and formal events like the HBA Charity Gala to foster new business relationships, celebrate industry successes, and recognize members.

Membership Stats:

- 123 members (34 builders, 66 associates, 23 affiliates)
- 20 new members in '23
- 19% growth YTD



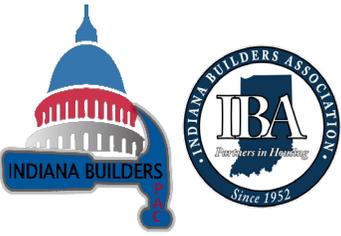
HBA of Northwest Indiana President, Bob Micunek (right) welcomes State Representative Hal Slager (R-Schererville) to the IBA Legislative Lunch at the Indiana Statehouse



Housing Stats

	Lake County, IN	Porter County, IN
Total Population in 2022	499,689	174,791
Population Growth 2020 to 2022	0.2%	0.9%
Households 2021	190,191	67,009
Median Household Income 2022	\$61,468	\$80,878

Housing Stats Source: <https://www.statsamerica.org/uscp/comparison.aspx>



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LEGISLATIVE ACCOMPLISHMENTS

- Passed prohibition of residential fire sprinkler mandate
- Passed prohibition on local builder license and registration requirements
- Passed Right to Work Law and repealed common Construction Wage Law
- Passed comprehensive Wetlands Statute
- Passed Developers Discount Statute

PAC ANNUAL COMMITMENT LEVELS

Gold Club	\$5,000
Silver Club	\$2,500
Bronze Club	\$1,500
Hammer Club	\$100
Supporter	\$40

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Hannigan celebrates 50 years of membership

By Savannah Ayres
Communications & Events Coordinator

Describe yourself in three words.
Friendly, Honest, Optimistic.

What's a fun fact or hobby not many people know about you?

I have a twin sister and my father was born in 1887, which would make my grandfather alive during the Civil War. Also, I am a huge Notre Dame fan and have been a football season ticket holder for 50 years.

What started you in the industry?

When I was a junior/senior in college, I started working for a small custom builder as a new home salesman. My introduction to the building industry was a great experience for a college student. After college, I worked for Miles Laboratory Drug Company and Wheel Horse Tractor Company, traveling full-time covering 13 states and two provinces in Canada.

During this time, Bonny and I were newlyweds, and I wasn't sure how I wanted my career to unfold. So, I took a leap of faith and decided to go into the finance industry. The mortgage company I joined rekindled my connection with the HBA of St. Joseph Valley as well as started my involvement with IBA and Bill Carson in 1972. And so, the adventure began.

Being involved at the local and state level of the federation provided me with the opportunity to create lifetime friendships and working relationships all across the state. When my family moved to Indy in 1981, I didn't know a soul and found BAGI and IBA as a portal to a network of good friends and good business. In total, I spent 30 years as an associate member and then 20 years as a

builder member.

Why did you join the Indiana Builders Association?

I initially joined the Association for its networking opportunities, but I quickly learned that the local, state, and national association all do vital work for our American way of life. Supporting the American dream of homeownership can be fun and productive at the same time. It is critical that we involve ourselves in the organizations that not only help our businesses grow and succeed, but that we take the time to give back to the industry that provides for our families.

What are some of the benefits you have gained from being a member of IBA?

I have always enjoyed the opportunity to learn from successful people in the industry. Surrounding myself with leaders and visionary entrepreneurs allowed me to develop my business and expand my network of friends and business associates who were united in the fight for safe and affordable housing.

What do you think makes IBA unique?

The talent and leadership. The leadership of IBA's CEO's, the late Bill Carson and Rick Wajda are a huge asset to the organization. Rick is one of the most respected lobbyists in the state. He has been successful in finding leaders in the IBA and the homebuilding industry that now serve in the Indiana General Assembly. **In terms of success, which accomplishments are you most proud of?**



Will Wright (left) presents IBA's highest housing honor, the John C. Hart Presidential Award, to Mike Hannigan, Jr. (IBA 2006 President) for his long-time dedication and support of the IBA

Top of my list, the success of the \$44 million weatherization program that I managed with IBA staff, starting in 2009. IBA's involvement in that program helped IBA and many members and construction contractors/suppliers survive a terrible recession. I was also active in the beginning stages of creating Indiana's Quality Builder Standard Program. It was a very controversial program when first implemented and it took a lot of effort to get off the ground. Today, it is one of IBA's most successful member benefit programs.

In addition to my Association involvement, I have been extremely proud of my service as a director on the Federal Home Loan Bank of Indianapolis for 18 years. My first appointment to the Federal Home Loan Bank Board was by then President Clinton and was due to my connection and involvement with IBA.

I also have enjoyed my work as a director of the Junior Achievement Foundation in New York City; and serving as President of St. Mary's Child Center in Indianapolis. A truly special place helping inner-city pre-school children. A passion I still am actively involved in to this day.

Within the Association, who was your strongest inspiration?

"A pantheon of heroes in IBA. The list is long." When I joined the St. Joseph Valley HBA, the IBA President at

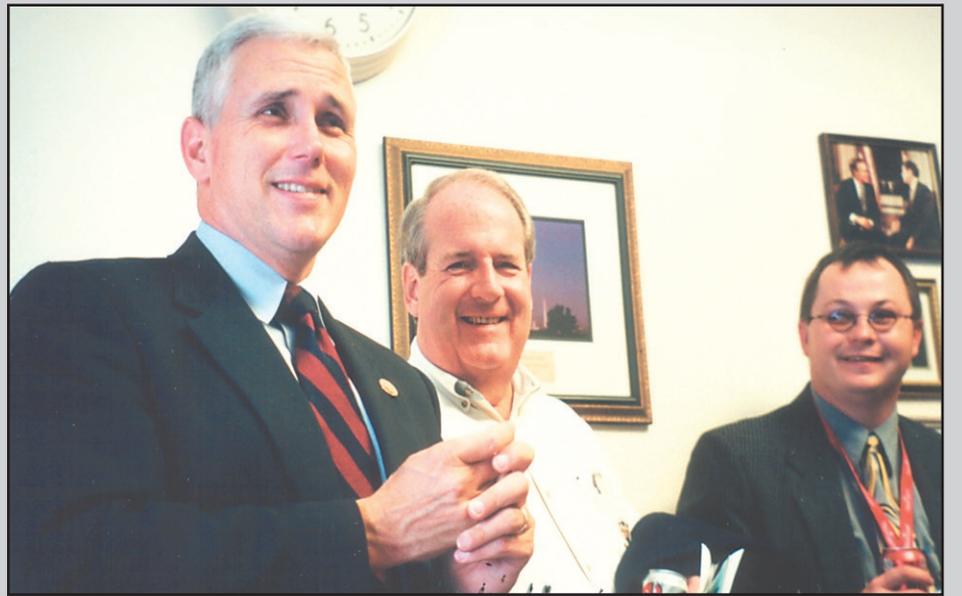
the time, Mr. Otto Gibson, spoke at a meeting, and I remember how impressed I was with him and what IBA was doing, and it resonated. It did not occur to me that I would have the honor of serving as IBA President and follow in the footsteps of Mr. Gibson 30+ years later. Look at the list of Senior Life Directors and you'll see most of my association heroes.

Where do you see the industry in 10 years?

Since 1964, there has been a long parade of innovations and development in construction which I'm sure will continue. Also, IBA will continue to carry on the battle of maintaining affordability for Indiana citizens. My prayer would be that we continue to have young people join and support the efforts of our local, state and national associations. The ability for young people with careers in homebuilding to develop well-rounded business skills and capabilities are available at all levels of the federation. Staying involved keeps you fresh mentally and hones your business skills.

What's the best advice you can give someone who just started in the homebuilding industry?

The best advice I can give is to join and get involved with your local and state association. At the local association, you can get involved and make connections and partnerships within your local community. At the state level, is a great way to grow your professional development, expand your network of business connections, and you will make some lifelong friends in the process. ■

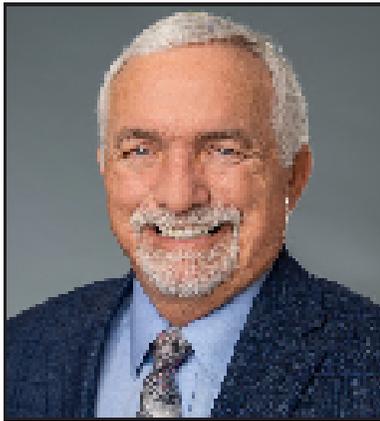




Indiana Builders Association Summer Board & Committee Meetings

Wednesday, May 17 | Crowne Plaza Indianapolis, IN

Keynote Speaker: NAHB 2nd Vice Chair Buddy Hughes



A Lexington, N.C.-based home builder and developer with more than 45 years of experience in the home building industry, is NAHB's 2023 Second Vice Chairman of the Board. Buddy Hughes opened his own general contracting business, Hughes Construction, in 1984 specializing in home building and light commercial construction. Hughes has been an active participant in the NAHB leadership structure of

the local, state and national level and currently serves as a life delegate of the NAHB Leadership Council. Hughes has served on several important NAHB committees and councils, and was awarded several awards.

Meeting Location & Hotel Accommodations:

Crowne Plaza Indianapolis Downtown Union Station
123 W. Louisiana St. Indianapolis, IN 46225

Reserve your hotel room by visiting <https://buff.ly/3Gy0ma5> or calling 317-631-2221.

Cost

\$35 if registered by May 10, 2023. An additional fee of \$5 will be applied for late and on-site registration.

Registration

Please register by May 10, 2023 for catering purposes. Register online at www.buildingindiana.org/events.

Schedule of Events

Wednesday, May 17

9:00 am - 11:30 am

- Registration

9:30 am - 11:30 am

- Executive Officers Council Meeting

9:30 am - 10:30 am

- Senior Officers Meeting

10:30 am - 11:30 am

- HB1005 Seminar:
Residential Infrastructure Funding

11:30 am - 1:30 pm

- Lunch & Board of Directors Meeting

1:30 pm - 2:45 pm

- Codes & Safety Committee Meeting
- Housing Protection Fund Committee Meeting
- Past Presidents Advisory Council Meeting

3:00 pm - 4:15 pm

- Association Issues Committee Meeting
- Government Affairs Committee Meeting
- Awards Committee Meeting

4:30 pm - 7:00 pm

- Executive Committee Meeting



Download our IBA Mobile APP

Explore the full schedule of events, site maps, guest speaker information and sponsors by using our mobile app event section! Open the conference by pressing "More" on the bottom bar, then select "Events" and check the Summer Board & Committee Meetings. Use the links below to download the app if you haven't already:

Apple Phones- <https://bit.ly/IBAAppApple>

Android Phones- <https://buff.ly/3mAY5Uc>

Event Sponsors:



IBA SCHOLARSHIP AND GRANT APPLICATIONS NOW OPEN

The **IBA Educational Scholarship Foundation** awards scholarships to individuals desiring to continue their education to enhance their career in the building industry, whether it be a structured degree, certification, designation apprenticeship, or an approved continuing education class.



The **Indiana Builders Charitable Foundation** provides grants to programs and institutions that provide education that enhances the knowledge and understanding of the housing industry and career opportunities within the housing industry.

Applications can be downloaded online at

[HTTPS://BUILDINDIANA.ORG/SCHOLARSHIPS-GRANTS/](https://buildindiana.org/scholarships-grants/)
and must be submitted by October 31, 2023 to mollie@buildindiana.org.

2023 Calendar of Events & Upcoming Events



June 6-10	NAHB Spring Legislative Conference and Leadership Meetings	Washington Hilton, Washington, D.C.
August 16	IBA Executive Committee Meeting and IBA Bill Carson Memorial Golf Outing	Back 9, Indianapolis, IN
September 19	Certified Lead Renovator Training	Ivy Tech Community College – Lawrence Campus, Indianapolis, IN
TBD	NAHB BUILD-PAC Golf Outing	TBD
September 18-22	NAHB Fall Leadership Meetings	Palm Springs, CA
October 23-25	Certified Aging-in-Place Specialist (CAPS) Program	TBD
November 29-30	IBA Leadership Conference and Board & Committee Meetings	Embassy Suites by Hilton Noblesville, IN



Featured Article

By Steve Haughey
Environmental Practice
Group
Frost Brown Todd LLP

MARATHON “PING-PONG” GAME CONTINUES AT EPA/ARMY CORPS: Courts stop latest “Waters of the U.S.” Rule from applying in Indiana and 25 other States for now

Unless it meets a short list of exemptions, a project requiring grading, filling or culverting a waterbody to build a home; construct a shopping center or industrial complex, or bury utility or pipe lines in Indiana (IN) will require a permit and some degree of mitigation under the Clean Water Act (CWA). Thus, understanding (1) whether, and if so how, such activities would impact “water(s) of the U.S.” (WOTUS) and thus require a permit, and (2) the timing and expense needed to acquire a permit, is critical to hundreds of projects occurring across Indiana each year. While the cost to obtain a permit and provide mitigation for a large-scale project can be hundreds of thousands of dollars, when a project is driven by rapidly-changing market conditions, being able to timely make these decisions and obtain the needed permit can be more important to a builder than the cost to obtain the permit. Timely obtaining a Corps permit can be every bit as important as obtaining a building permit or zoning approval.

To be sure, no builder likes overly stringent rules or the added costs and delay they may impose. However, if they are at least clear, understandable, and uniformly applied, builders often will tolerate them, as added costs can be externalized in a project by, for example, charging more for a lot, a new home, or a new lease. But when rules are vague, subjective, and applied inconsistently, and change significantly depending on the party occupying the White House, they deny a builder the ability to say with any certainty if they apply, and violate due process protections designed to protect all builders. Unfortunately, all versions of the rule dating back at least to 2008 has failed to meet this

standard and, as discussed below, the latest 2023 version is arguably the worst of the lot.

Starting shortly after the Supreme Court’s SWANCC decision in 2001, and ending with the latest revised rule issued in January, the number of rewrites of this important rule over the past 20+ years has crossed into the realm of the bizarre. At least seven major rewrites have occurred during this time, resulting in builders having, on average, at most two years to operate under one version before a court struck it down, or the process to change it under a different administration began again. During this time the rule has also been the subject of at least four separate Supreme Court appeals, including one still pending today, awaiting a decision hopefully in the next few months.

Because the average time to obtain an individual Corps permit for larger projects (as opposed to a nationwide permit for smaller ones) is close to a year or more, this means that a significant percentage of applicants had to submit a new or revised application because the rule changed while the first application was still pending. To say the least, navigating the permitting process under this “regulatory rollercoaster” has been difficult for builders. The lack of regulatory certainty, particularly when it is this longstanding, arguably causes a greater drain on economic resources and more lost opportunities than if an overly-stringent, but clear and understandable, WOTUS rule had been in place the entire time.

The latest version did nothing to add the clarity needed to help builders know if a permit is required for most projects without having to request a visit from a local Corps inspector to tell them one way or the other. While no inspector is needed to confirm that, for example, a permit is required to

build a dock overlooking the Ohio River, dredge the shoreline of Lake Michigan, or grade wetlands in the Grand Kankakee Marsh northwest of South Bend, the vast majority of projects impacting waterbodies in IN are not that situation. They involve small ephemeral streams, ponds, and wetlands, waterbodies often long distances, at times even miles, away from the nearest water that everyone agrees is a WOTUS that requires a permit for any proposed filling or grading.

Important terms in the new rule defining whether these types of waters require permits are even less clear and more subjective than previous versions of the rule. For example, unless an activity meets limited exceptions, the new rule defines as WOTUS all waters (1) “adjacent” to a WOTUS, and (2) waters not “adjacent” but still “significantly affect” a WOTUS. Rather than define these terms with clear objective language, the rule defines “adjacent” as “bordering, contiguous, or neighboring” (including subsurface connections), all in vague, subjective language. And the rule defines waters that “significantly affect” a WOTUS as those that “alone or in combination with similarly-situated waters in the region” have a “material influence on the chemical, physical, or biological integrity” of a WOTUS, all based on even more vague and subjective language. And to make the decision whether a water “significantly affects” a WOTUS, the rule added 10 subjective, undefined factors to be evaluated, none considered more important than the other nine.

A rule must be clear enough such that a builder can understand how it applies, either alone or, at most, seeking consultation from experienced consultants and legal counsel. But when a rule is so vague and subjective that seeking consultation does remove the uncertainty, and the only safe way is to have

the agency that enforces the rule visit the project site, such rule raises serious issues of due process.

The January 2023 version replaced the last administration’s revised 2020 rule that at least attempted to add clarity for builders by (1) eliminating ephemeral streams as WOTUS, leaving it to states’ discretion whether to require permits for such small waterbodies; (2) requiring that an “adjacent” water at least have a continuous surface connection to a WOTUS to be itself a WOTUS; and (3) eliminating the vague, subjective “significant nexus” test for waters not “adjacent” to a WOTUS. And before that version was voluntarily rescinded by the current administration in mid-2020 was an earlier 2015 version from a previous administration that was itself struck down by the courts before the next administration began writing a different version.

This marathon “ping pong” game is due Congress’ failure to define what is a “navigable water of the U.S.” when enacting the CWA in 1972. Each administration since then has struggled to define the term in a manner that complies with three mandates: (1) protect and restore fishable and swimmable surface waters, (2) reserve land use decisions to the states, and (3) avoid regulating groundwater. Despite pleas from several Supreme Court justices for Congress to take action to clarify the statute, no action has been taken.

Meanwhile, the rollercoaster ride continues. At least a half dozen appeals have already been filed by the nation’s largest trade organizations, including NAHB and some state affiliates, and more than half of the states. More will follow. All ask for injunctive relief to keep the rule from applying until the appeal is decided. About two weeks ago, a court in TX granted such relief, keeping the new rule from being used for now in TX and ID. And just a few days ago, a court in ND granted the same relief in an appeal involving 24 states, including IN and OH, also keeping the new rule from being used in those states for now. Each court (*continue to next page*)

found multiple defects in the new rule, including the failure to provide sufficient clarity to enable builders to understand the rule and whether it applies to a particular project.

The fact that the new rule currently does not apply in IN is not much help. The court's decision just means that the most recent version not stricken down by the courts or voluntarily rescinded by a new administration is now in place, and that version (pre-2015) still has many of the same vague, subjective terms as the 2023 version, including the controversial "significant nexus" test. Until additional rulings emerge from the courts, there are four things IN builders should consider when evaluating the currently applicable rule for a project:

1. Bring in experienced legal counsel to consult early on in the process. As difficult as it can be for even experienced counsel to know with certainty whether a particular stream or wetland requires a permit, there are significant parts of the rule carried over in all versions, making experience vital to the process. Decisions, such as evaluating alternative

plans/site drawings that minimize impacts on waterbodies, can be the difference between obtaining a nationwide permit in 90-120 days at minimal cost, or having to obtain an individual permit that can take up to a year or more and cost hundreds of thousands of dollars. Experienced counsel know the lines of demarcation that separate the two types of permit, and can work closely with the design engineer and a wetland/stream consultant to configure the plans and subsequent delineation to meet the client's economic objectives, while minimizing costs and delays to obtain a permit.

2. If possible, find a consultant with experience under different versions of the rule, in particular experience evaluating whether a wetland or stream is "adjacent" to a WOTUS or has a "significant nexus" with a nearby water that is a WOTUS. Consultants whose delineation concludes that a water "may be a WOTUS" and recommends "consultation with a Corps inspector" add little value. But a consultant known for issuing clear, well-documented delineations, one who the Corps knows and

respects, is worth every penny, and more. In addition, a good consultant will not perform an official delineation without working first with the builder's representatives to minimize, as much as possible, potential waterbody impacts while still achieving the builder's most important economic objectives. If possible, interview multiple consultants or ask counsel for recommendations.

3. Determine up front whether the project is subject to market conditions that may determine its success or failure based on how quickly a permit is obtained. The answer to this question determines, among other things, how aggressive an evaluation of potentially-less-impactful alternatives should be; whether the added cost and delay of obtaining an individual permit is acceptable due to realizing a greater economic benefit; whether different types of available mitigation should be considered; and whether a large scale project should be reduced in scope or phased to avoid a negative shift in market conditions.

4. Do not overlook the fact that in IN the filling of a small isolated wetland that is not a WOTUS may still require a permit (and some degree of mitigation) from IDEM depending on the classification of the wetland, albeit at a cost and timing much less expensive and far quicker than obtaining a Corps permit.

The "rollercoaster ride" known as the federal WOTUS rule continues for now. So far the courts are sending a strong message that the latest version is even more flawed than previous versions, and is clearly not the "durable" rule claimed to be capable of surviving no matter what party sits at 1600 Pennsylvania Avenue. Since Congress is unwilling or incapable of fixing the problem it created 50 years ago, once again the nation's courts will decide the fate of this important rule. ■

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IBA welcomes 191 new members in first quarter of 2023

For the months of January, February and March, Indiana local home builder associations welcomed 191 new members to the federation.

They are listed below A to Z by company name. To find a local home builder association near you, please visit:

www.buildindiana.org/local-associations/.

Shane Stoppenhagen, A and S Property Maintenance LLC

Eric Woerner, AI Mechanical of Indianapolis.com

BJ Tippmann, ABC Seamless of Fort Wayne

Ridge Tarwacki, Ace Concrete Coating

Adam Gibson, Adam Gibson Design LLC

Bruce Dohrman, Air Stoppers Insulation LLC

Richard Graber, Air Works III LLC

Michelle Ferrero, American Bath Group

Olga Hunt, Associa- Community Association Services of Indiana

Travis Andres, Atlas Technical Consultants

Zach Bradley, Auburn Door Inc.

Brian Bennett, Bennett Custom Homes

Michelle Gammons, Berkshire Hathaway Home

Services Parks & Weisberg Realtors

James Grueser, Big Head Industry

Shane Espenlaub, Bobcat of Evansville

Ross Bojrab, Bojrab Landscape Management

Robyn Bower, Bower Real Estate Group Inc

Danek Znika, Brokerworks Group LLC

Chris Blake, Bullseye Construction

Michelle Wagoner, Buy-Sell-Build Real Estate LLC

Mike Needles, C A Jones Inc

Rick Gordon, C&G Development

Nicole Townsend, California Closets - Midwest

Kendra Elpers, Carl Elpers Contracting LLC

Matt Lombard, Carter Lumber

Denyse Pontius, Century Chemical Corporation

Lisa Monahan, Chicago Title

Lisa Lara, Coldwell Banker Realty

Kimberly Perry, Coldwell Banker Realty

Kristy Rice, Comfort Flooring & Design Center

Lisa Kendall, Concord Community Schools

Scott Penny, Cornerstone Custom Homes

Brent Horine, Daltile South Bend

Andy Davis, David Insurance Group Inc.

Levi Busby, Davis Homes

Michael Daulton, DCM Construction LLC

Dawn Evans, Deluxe Painting

Christine Doncaster, Doncaster Flooring & Design LLC

Geoffrey Dodson, Donovan Hawkes State Farm

John Wiley, Don't Drive Naked

Brad Alexander, Double A Services Inc.

Tim Franke, Duneland Media

Jenifer Fox, E T & T Enterprises INC.

Tiff Arcella, ECS | Erosion & Construction Services

Lindsey Downey, Edward Jones

Will Egle, Egli Coating Solution

Taylor Lennon, Erosion and Construction Services

Clint Mitchell, Estridge Homes

Tom Morrism, Exterior Arts LLC

Jeff McClure, Fairfield Building Trades

Mitch Miller, Farm Bureau Insurance

Tim Skibbe, Federated Media

Caroline Varga, Ferguson Bath & Kitchen

Brian Mimms, Fifth Third Bank

Amanda McKenzie, First Community Mortgage

Matthew Bochard, First Federal Savings Bank

Betsy Allen, First Merchants Bank

Anthony Kulikowski, Five Star Painting

Vanessa Cooreman Smith, Flourish Interiors

Katie Stutsman, Flourish Interiors

Kelly Wilhelm, Forefront Surveying & Enginnering

Conor Runkel, GAF

Jeremy Gauer, Gauer Transport

Alyssa Hoover, George's Concrete Pumping

Dave Herrli, Glass Doctor of Elkhart & St. Joseph Counties

Paul Graber, Graber Masonry

Rodemil Nieto, Granite Concepts LLC

Carol Donovan, Greater Indiana Title

Angela Porter, Green Hat Supply

Jennifer Lehman, Hallmark Home Mortgage

Jim Harvey, Harvey Brothers Construction

Matthew Dexler, Hawkeye Security And Electronics

Leah Rhoades, Head's Electric

Wayne Beechy, Heartland Polymer Cabinets

Floyd Eash, Heritage Cabinetry LLC

Lyndsey Brown, Hometown Window & Door Company

Shaun Groninger, Huntington Bank

Chris Gardner, HWC Engineering

Troy Swan, HWC Engineering

Brian Woods, Indiana Members Credit Union

Jason M. York, Indiana Michigan Power/AEP

Trish Stopczynski, Innovative Spaces/Innovative Concrete Coatings

Ryan Baker, Integrity Title Services Inc.

Tammi Spence, J.C. Spence & Associates Inc.

James Schmucker, James Schmucker Masonry LP

Tim Sigler, JBI Construction Inc

Brady Kemper, Kemper Concrete Inc.

Tom Keough, Keough and Sons Electric

Eric Kerstiens, Kerstiens Garage Doors

Michael Simmons, Keyreter Indianapolis North Property Management

Wayne Kinney, Kinney Construction LLC

Bill Sears, Knobstone Development Group Inc.

Brad Newton, Kokomo Glass & Paint

Steven Mortimer, L.E. Gregg Associates

Michael Conley, Lake Mortgage Co

Darrin Selking, Landscape Illumination

Dallas Beaver, Leave it to Beaver Roofing

Gustavo Martinez, Legacy Drywall LLP

Crayton Caudill, Level 10 Epoxy LLC

Travis Carmean, LIME Painting of Indianapolis

Cliff Hankins, Lux Outdoor Design

Travis Marx, Marx Concrete Inc.

Dustin Olander, McCoy Construction & Forestry

Ron McFarland, McFarland Homes

Scott Catanzarite, Metropolitan Title of Indiana LLC.

Julie Miller, Metropolitan Title of Indiana LLC.

Matthew Crouch, Midwest Home Construction

Brian Miller, Miller Hardwood Floor

Michael Pease, MLP Construction & Development LLC

Laurie Kemp, Momentum Title Agency LLC

Angie Hostetler, Monteith's Best- One Tire & Service

Shane Logan, More Farm Store

Kevin Kain, Mulzer Crushed Stone

William Myers, Myers Landscaping

Noah Nellis, Nellis Lawn & Landscape

Gareth MacMillan, North Star Stone Inc

Logan Gerbers, Northern Star Landscaping

Hannah Nussmeier, Northpointe Bank

Heidi Wood, Northridge High School Work Based Learning

Rita Eslinger, Northwest Bank

Ricardo Scarlett, Northwest Bank

Ron O'Connor, NuLook Enterprises LLC

Tom Humphrey, Oasis Community Inc.

Candy Paguada, Odalis Contractors LLC

Ben Murphy, Odell Lumber & Supply Inc.

Greg Allaben, Old National Bank

Greg Orr, Orr Environmental Solutions

Eusebio Prado, Oscar Roofing

Richard Handley, Pella Windows & Doors

Chad Pfeffer, Pfeffer Construction LLC

Cesar Rodriguez, PPG Paints

Chris Shade, PPG Paints

Ryan Geltz, Pro Security and Automation LLC

Nick Nativo, Professional Image - Proforma Albrecht

Rich Syndram, Professional Roofing Solutions & Construction LLC

Jerad Harlow, Property X Contracting LLC

Mark Wernert, Quality Home Foam LLC

Mike Westfall, Raptor Synthetic Underlayment

Jason Shepperd, Raynor Door Authority

Ricky Siri, Re/Defined Flooring

Brian Stute, Redline Homes and Construction

Brandon Reilley, Reilley Trucking

Joshua Sibert, Remax Results

Lori Lewis, Residential Warranty Corp

Tom King, RG Decor

Lisa Hammock, Riverside Group LLC

Shelly Schmelzer, Rococo Interior Design Services

Jim Maurer, Ruoff Home Mortgage

Matthew Schickel, Rural 1st

Sean Carpenter, Rural 1st / Farm Credit Mid-America

Gable Schrock, Schrock Construction Inc.

Cade Shepherd, Shep's Plumbing

Mario Pinon, Sherwin Williams

Jamie Quint, Signs OverNITE Inc.

Daniel Slabaugh, Slabaugh's Water Conditioning LLC

Whitney Steltenkamp, Solidarity Community FCU

Paul Giesler, Southern Indiana Supply Inc

Amy Williams, Spectrum

Phil Blazek, SPG Roofing & Exteriors

Caleb Tipton, Springer Design

Michael Graniczny, Sublime Homes LLC

Wes Isbell, Supreme Heating & Air Conditioning

Fireplaces & Hearth

Anthony Wilson, T.E.C. Consulting Engineers PC

Carla McFarland, Teachers Credit Union

Terry McCaleb, Terry L. McCaleb Realty Group LLC
Mike Gaffney, The Granite Shop
Benson Davenport, Titan Construction Partners
Nick Miller, TND Homes LLC
Tony Frantz, Tony Frantz Commercial & Drone Photography
Kayla Pridemore, Total Home by DJ
Christopher Paliska, Total Quality Lending
Justin Cook, Trademark Universal Stone
Jeff Horstman, Traylor Bros. Inc.
Susie Wilson, Trinity Elite LLC
Jana Bartlett, Trinseo
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Q1 2023 MEMBERSHIP STANDINGS

TOP RECRUITING LOCALS BY PERCENTAGE GAIN

1. HBA of Northwest IN: 19.4%
2. BA of North Central IN: 15%
3. Southwestern IN BA: 14.9%
4. HBA of St. Joseph Valley: 11.7%
5. BA of Greater Lafayette: 8.7%

TOP RETAINING LOCALS

1. Vincennes Area BA: 97.3 %
2. Dearborn County HBA: 96.8%
3. BA of Greater Lafayette: 92.5%
4. BA of Dubois County: 90.4%
5. BA of North Central IN: 90.3%

TOP NEW MEMBER RECRUITERS

Scott Bowman, BMB Inc., Newburgh: 11
 Mark Mayfield, Modern Structure, Evansville: 8
 Matt Reinbrecht, Reinbrecht Flooring, Haubstadt: 7
 Jennifer Mitchell, Niehaus Lumber, Vincennes: 5
 Hank Kidwell, Idle Creek Golf Development, Terre Haute: 4



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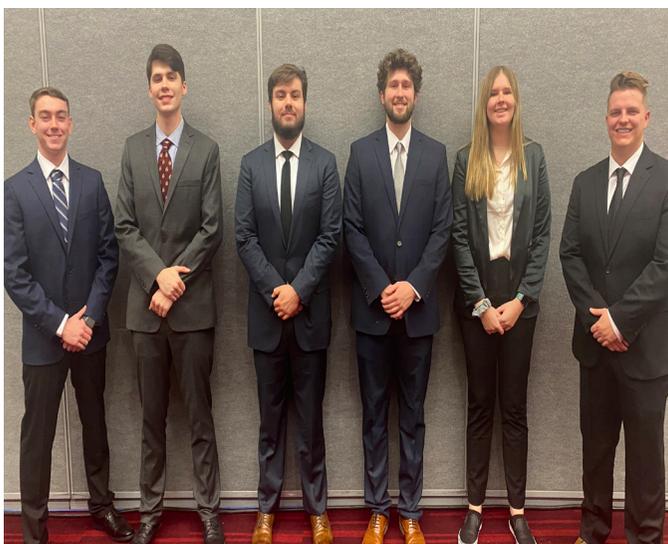
Overlook of the International Builders' Show entrance, hosted January 31 – February 2, 2023 at the Las Vegas Convention Center



NAHB First Vice Chairmen Carl Harris provides an update for members in Area 9 Caucus – Illinois, Indiana and Michigan



Members around the state gather together for a picture after receiving valuable information to bring back to their local associations during the Area 9 Caucus meeting



Purdue University students participated in the custom home/small homebuilder student competition at IBS



Students representing Ball State University compete in the NAHB student chapter competition for the first time in the four-year production section



Students from Purdue had a large presence at the International Builders' Show



IBA CEO Rick Wajda (left) connects with HBA of Michigan CEO Bob Filka while hosting a networking night for members in Vegas



Members from Indiana, Michigan and Illinois network at an event at IBS hosted by the state associations



2023 HBA State Presidents (from left): Allen Drews (IL.) Ric Zehr (IN.) and Richard Kligman (MI.) thanked sponsors during the networking event



David Compton, 2008 IBA President (left) with Ric Zehr, IBA's 2023 President



Pictured (from left): Jhonelle Kees, Lynn Wajda and Melissa Compton



Pictured (from left): Christian Evans, Executive Officer of BDA of Southern, IN., Shelly Furnish, Deborah Zehr and NAHB State Rep. Greg Furnish and Anne Wajda



Pictured (from left): Greg Furnish, NAHB State Rep.; Adam DeVon, NAHB National Delegate and IBA State Director; Bob Penrose, HBA of St. Joseph Valley Executive Officer



Pictured (from right): 2020 IBA Past President and BANCI VP, Brett Harter with Indiana Construction Roundtable CEO/President, Chris Price



Western Indiana BA members pictured (from left): Hank Kidwell, Ryan Baker, Jarrod Grable



Pictured (from left): Ric Zehr, '23 IBA President and David Kovich, '03 IBA President



Save the date for the 2024 International Builders' Show next year

Legislative Conference





IBA Across the State



Members of the Vincennes Area Builders Association met to hear about IBA member benefits and savings programs from Mollie Flook, IBA Association Services Director, and to plan for an upcoming career day event. From left: John Jones, Matt Hendrixson, Rich Welage, and Flook



Association Area Vice President, Tim Eckert (left) and State Director Andrew Brindley (center) welcome IBA 2023 President, Ric Zehr to the annual BAGI Industry Awards Gala



Leaders from HBA of Fort Wayne gather together during the annual builder/developer breakfast



From left, 2000 IBA President, Herb Delagrange, State Director Jamie Lancia and 2023 IBA President Ric Zehr at the HBA of Fort Wayne's annual builder/developer breakfast



Governmental Affairs Director, Carlie Hopper connects with Indiana State Representative Jake Teshka on IBA-supported bills during the legislative session



Members of Howard County HBA gather at the Kokomo Country Club for their membership meeting with guest speaker Marcy DeShong, IBA Secretary (front, second from left)



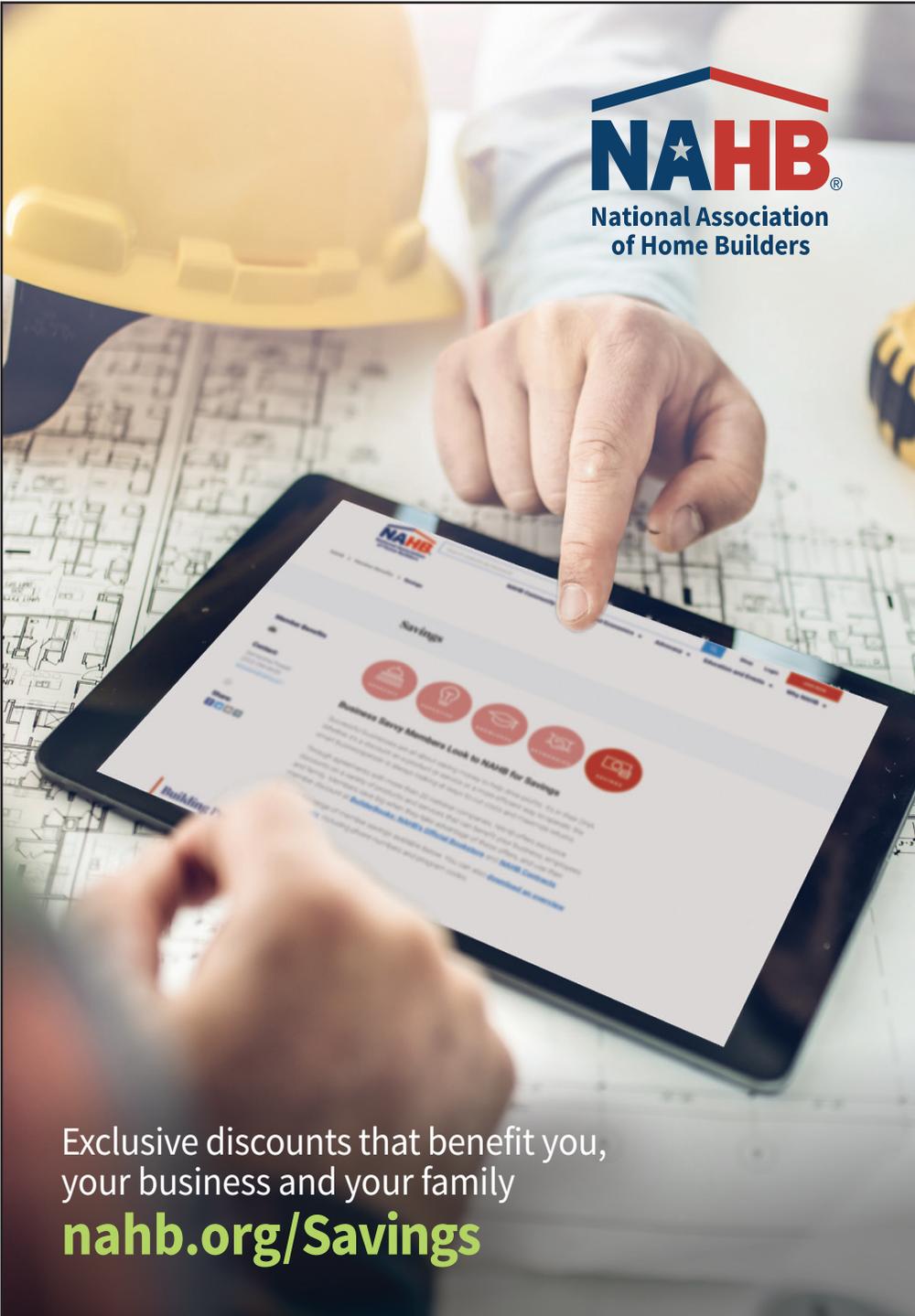
At the April meeting for the SW Indiana Builders Association, IBA State President Ric Zehr (left) spoke to members about housing demand, regulations, and proposed legislation. Pictured (from left): Zehr, Vice President Kenny Reinbrecht, Haubstadt and SIBA President Scott Bowman, Evansville



State Representative Jim Pressel (right) talks housing with Ric Zehr



Dearborn County HBA hosted a Lunch and Learn inviting industry leaders to speak on TIF, READI funding and legislative interests that impact housing. Pictured (from right): IBA CEO Rick Wajda, Dearborn County HBA President, Lisa Cox, Randy Maxwell and Mike Perleburg



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Remembering Terry Stultz



Terry Stultz, IBA Senior Life Director

The Indiana housing community lost a great leader unexpectedly on March 20, 2023. Terry Stultz worked for over 30 years at Black Lumber in Contractor Sales and was also the voice of Black Lumber on the radio in their commercials in the Bloomington area. Stultz was a graduate of Bloomington High School South and attended Indiana University.

Stultz was a proud member of the Builder Association of South Central Indiana since 1990, and active at the local and state level with IBA. Terry's accomplishments included: Salesperson of the Year by the Indiana Lumber and Builders Supply Association in 1996, IBA Associate of the Year in 2006, IBA Senior Life Director status awarded in 2018 after attending his 60th IBA Board of Directors Meeting. Stultz also amassed 339 Spike Credits with NAHB for membership recruitment and retention, placing him in the top 20 all-time in Indiana.

Beyond the homebuilding industry he was a sports enthusiast. He loved everything IU and spent his winter Friday and Saturday nights broadcasting High School Basketball on WGCL. Terry could also be found most Thursdays at Applebee's and Fridays after basketball at the Alley Bar. Terry enjoyed spending Sundays with his mother and his daughter, Shelby and her family.

"Terry was a great leader for the Association and will be missed. His work on the state level on various committees and his dedication to growing the organization through membership were hallmarks of his commitment to the industry. He was one of the first members I had the pleasure to work with on IBA's Midwest Builders Convention in the mid-1990's and I always enjoyed catching up with him at our state meetings or down at a local meeting in Bloomington", commented Rick Wajda, IBA CEO.



IBA CEO Rick Wajda (right) visits with leadership of the Bloomington-based Builders Association of South Central Indiana, including President Terry Davis (left), Executive Officer Jason Bell (2nd from left), and IBA Senior Life Director Terry Stultz



Senior Life Director Terry Stultz shakes hands with Pat Smith while receiving the 2006 Associate of the Year Award



Members catch up at BA of South Central Indiana Pictured are (left to right): Mark Sovinski; Terry Stultz; and Tom Slater



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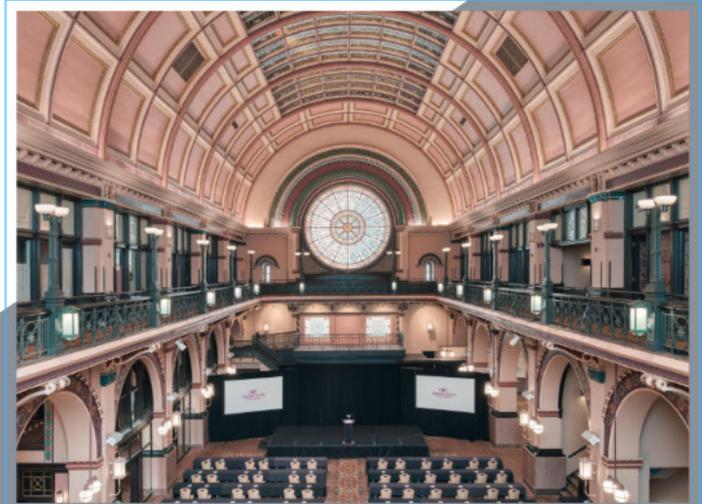


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2023 SUMMER BOARD & COMMITTEE MEETINGS



CROWNE PLAZA DOWNTOWN INDIANAPOLIS UNION STATION WEDNESDAY, MAY 17

Highlights:

Board of Directors Meeting lunch with keynote speaker Buddy Hughes, NAHB 2nd vice chair

HB 1005 Seminar: Residential Infrastructure Funding

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