

# Gates 101

## *Best Practices Regarding Picketing*

BY DENISE HERDRICH

Without a reserved gate system, a union that has a dispute with one employer is normally free to picket the entire job site, even if that picketing interferes with other contractors' employees reporting for work. If a reserved gate is set up for the struck contractor(s) at the job site, the union must limit its picketing. The picketers cannot picket the gate(s) reserved for other contractors at the site because they are not directly involved in the labor dispute.

To establish a reserved gate system, designate a separate entrance for the contractor(s) to avoid the picketers from the striking union, and a second entrance (the neutral gate) for all other contractors not involved in a dispute. The gate for the struck contractor(s) should be located sufficiently apart from the gate of the "neutral" contractor(s) entrance to prevent picketing from spilling over onto that gate.

Each gate should be clearly designated with appropriate signs stating the proper gate for each contractor. The sign for the struck contractor(s) should read as follows: This gate reserved for the exclusive use of (the struck employer(s), its employees and suppliers. All other contractors, their employees and suppliers must use the gate located at \_\_\_\_\_.

This sign at the neutral gate should read as follows:

- This gate reserved for the following contractors, their employees and suppliers: (List the neutral contractors). (List of struck employers), its employees and suppliers must use the gate located at \_\_\_\_\_.

The striking union must be notified in writing (certified letter) and by telephone of the establishment of the reserved gates. Be sure to ask for confirmation copies of any certified letters to be sent to the union.

In order for the reserved gate system to work, the contractors must use the proper



gates at all times. This includes supervisory personnel as well. Failure to adhere to designated gates may enable the union to picket the entire job site. If the union illegally pickets the neutral gate, consult a labor attorney. It is recommended to have witnesses and photographs of any such illegal picketing for evidence in court or before the National Labor Relations Board (NLRB).

### RESERVED GATE-REFUSAL OF NON-STRIKING EMPLOYEES TO USE THE NEUTRAL GATE

Assume that one or more of the building trades union is on strike, but the others are not. Come to find out after the reserved gates are established and the striking union is only picketing the reserved gate and not the neutral gate, other tradesmen and/or employees of subcontractors, who are members of non-striking unions, still fail to go through the non-picketed gate.

In this instance, contractors should:

- Try to find out whether the failure of employees to work is their own idea or whether it is union inspired. If an employee on their own and apart

## Answers To Your Labor Questions

This is the third in a series of best practices articles written by the Builders Association's Director of Labor, Denise Herdrich. The Builders Association is one of the few in Chicagoland with a full-time Director of Labor.

For best practices in the case of a jurisdictional dispute, see *The Builder's* online archives. See future issues for information on strikes and grievances.

Questions about labor should be directed to Denise at 847.318.8585.

from union instruction simply will not work, there is little or nothing that can be done other than to replace the employee. In most cases, the union enforces the rules, therefore the information can be acquired from them. In addition, speak to the employees or business agents with witnesses in order to establish union responsibility

- If a subcontractor's employees are refusing to work, request that the subcontractor undertake efforts to get his employees to return to work. Notify the subcontractor in writing of the responsibility to complete the work in a timely fashion
- Either the worker or the affected subcontractors should send a certified letter to the union advising them that their members are not reporting for work through the neutral gate, which is a violation of the no-strike clause of the contract. As an example of a certified letter:
- With respect to project \_\_\_\_\_, a neutral gate has been established at \_\_\_\_\_. This gate is not being picketed; however, the employees are not reporting to work. Their

**see STRIKES, page 18**

# Corporate Savings Through Verizon

## Take Advantage Of Builders Association's Partnership To Save Money

As contractors search for ways to save money, the Builders Association has partnered with Verizon Wireless to help its members do exactly that. Members can receive a 22 percent discount on certain monthly calling plans in addition to deals on phones, BlackBerry devices and select accessories.

Corporate users receive a \$100 bill credit per new line, up to five lines eligible, with 33 percent off accessories. Participating companies interested in broadband access and laptop internet cards can get them for a discount of over 20 percent.

These discounts are available to companies already using Verizon Wireless service right now in addition to those switching from another wireless carrier. Climatemp, Inc., an HVAC contractor, joined the program when it joined the Builders Association in 2008.

"We got twelve Blackberrys that would have cost approximately \$100 per phone," said Mona Blood, Climatemp's Vice President of Risk Management. "We got them for about five dollars apiece. (The program) has done a lot of good for us, and it's been very beneficial."

For more on how your company can take advantage of the savings available to you through Verizon Wireless, contact Denise Herdrich at the Builders Association (847.318.8585) or Jason Stulgate at Verizon Wireless (312.550.5229).

### IPD, from page 2

want to save money, contractors who desire to build a better building and frustration from all parties involved with conventional delivery.

"A lot of the drive to do this really comes from companies who know that there must be a better way to do things," Frey said. "Based on a project that hadn't quite turned out the way they wanted it, it was the owner or the contractor simply acting on what they could do to improve."

Frey alluded to what Tocci calls the "one company feel" when describing what happened when the general contractor, subcontractors, architects and owner were all in the same workspace as problems came up.

"The trust level was strong compared to other projects and increased as people realized it was working," Frey said. "In addition to that, the project was actually fun. Communication was improve and the core group worked very well together."

That enjoyment made itself apparent in the results at the Cardinal Glennon Children's Medical Center - close to a \$50 million endeavor - which utilized an Integrated Project Delivery agreement. The project boasted:

- Over two percent savings from the original budget
- 63 RFIs. By comparison, a project of comparable size that Alberici built in the same time frame produced 2,600 RFIs
- No cost-added change orders
- High morale
- Eight minor first-aid cases and no lost time injuries

Since IPD emphasizes all components of the project working together, Frey stated the importance of being able to trust who you work with. For that reason, general contractors should carefully select subcontractors who are open to innovation and willing to make the leap.

In other words, what's cheapest may not always necessarily be what's best for the project.

"You have to be working with competent people you can trust," Frey said. "It's important on any project, but even more so if you're just starting with IPD. It's absolutely imperative that you find people who will do what they say they're going to do."

More information on Integrated Project Delivery and the PowerPoints that went with Tocci and Frey's presentations are available on the Training/Education section of the Builders Association's website. By logging in as a member, you can view members only sections and items such as labor contracts. Members who need a login for the website or have questions should contact Communications Manager Andy Cole at 847.318.8585.

### STRIKES, from page 6

refusal to work is a violation of the no-strike clause in the collective bargaining agreement and we intend to hold the workers and the \_\_\_\_\_ Union strictly liable for all of the damages

- The most effective action for an employer to take is to file a legal action for damages against the union. This can hold the union responsible for damages if proven their complicity in, authorization of, or participation in an illegal strike
- The affected business is free to replace any employee who will not enter the neutral (un-picketed) gate. Failure to enter a neutral gate is no different than the failure of an employee to report to work. Even though reserved gates have been established and restricted picketing from neutral gates that does not ensure non-striking employees are going to enter that gate. Employers must be prepared to take further action to be sure that the second gate is effective

Another possibility is to establish separate shifts and require the struck contractor to work only on a different shift. If this is done the striking union may only picket during the time that the struck contractor is scheduled to work

If all else fails, the struck contractor can be removed from the job site by the general contractor or owner. If the struck contractor has been removed from the job site, all picketing must cease. Thereafter, competent legal advice is essential.