

# Anchin Alert

**Anchin, Block & Anchin LLP**  
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## **Trends and Forecasts for New York's Construction Industry Discussed at Anchin's Ninth Annual State of the Construction Industry Event**

Anchin's ninth annual **State of the Construction Industry** event was held in New York City on **September 18, 2014**. Presented in cooperation with the New York Building Congress (NYBC), the American Council of Engineering Companies of New York (ACEC NY), and the American Institute of Architects – New York Chapter (AIA-NY), the event is much anticipated by industry leaders as an indication of what they can expect in the coming year.

Phillip Ross, Chair of Anchin's Construction and Architecture & Engineering Industry Groups, greeted the audience and marveled at the changes he's seen since Anchin's first state of the industry event in 2005. "From new technology and innovation to swings in the economy to the devastation of Superstorm Sandy, the construction industry has persevered and been an integral part of the transformational changes New York has seen," he said.

Observing that last year's hot button issues—inflationary pressure on the residential housing market and its stability, succession planning, talent acquisition and employee retention, and the need to rebuild the city's infrastructure—might be touched on again, he went on to mention some other important issues have come to the forefront of business owners' minds. Among them were the possibility of Congressional action on cash basis accounting, speculation about potential tax changes and the use of union versus nonunion labor.

Ross then introduced Richard T. Anderson, President of NYBC, as moderator of the panel discussion. Noting that the 2014-2016 NYBC forecast was likely to exceed the current \$31.5 billion when it is revealed next month, Anderson said the theme of his questions would revolve around the real strength of the industry. He then introduced the distinguished experts on this year's panel:

- **Charles J. Gozdziwski, PE, Principal & Chairman, Hardesty & Hanover and Chair-Elect, ACEC NY.** Gozdziwski's responsibilities have included overseeing transportation planning, construction inspection and support services for highways; all types of movable, fixed and railroad bridges; as well as special structures. He has been involved in the design, inspection, evaluation and rehabilitation of hundreds of bridges in the United States, particularly in the New York and New Jersey metropolitan area.
- **Sabrina Kanner, Senior Vice President, Design & Construction, Brookfield Properties.** Kanner, has been responsible for many notable projects including the rebuilding and reopening of the Winter Garden one year after the events of September 11, 2001.
- **Dr. Feniosky Peña-Mora, Commissioner, New York City Department of Design & Construction.** Peña-Mora, formerly a civil engineering and engineering mechanics professor and dean (2009-2012) at Columbia University's School of Engineering and Applied Science, oversees capital construction projects ranging from new roads and sewers to schools and police precincts.
- **Richard Wood, Chief Executive Officer, Plaza Construction.** Wood has grown his company to national prominence, while maintaining its status as an active participant in many of the city's most complex building projects, to date encompassing more than 20 million square feet of new core and shell construction, interior renovations and sophisticated infrastructure upgrades.

Anderson opened the discussion by asking Commissioner Peña-Mora what has encouraged him the most so far in his tenure. Peña-Mora quickly responded that the wealth of the city and the investment in infrastructure across all five boroughs is what he's excited about.

This led to a lively exchange about the city's need to balance available funds against four things: its backlog of approved projects, new needs, Mayor DeBlasio's wish for affordable housing and the city's cumbersome procurement process.

Wood noted that he's seeing this play out as construction companies come up with better design and new techniques. This is establishing a real distinction between companies and creating real value for developers who look to hire competent companies, he said. Such entities do not view construction as a commodity.

He also acknowledged that competition and diversity is good for everyone and that unions are adjusting their expectations as competition increases with nonunion shops. While accomplishing this is like "turning a steamship," trade unions need to understand that they will only survive by recognizing the need to make concessions. Wood shared that he believes blended costs are part of the answer.

Gozdziwski said that investment in infrastructure is directly related to the economy. Engineers were busy in 2008-2009 as they ate through the backlog of approved projects. Now the economy is in better shape, and funding is available for rebuilding infrastructure, which is critical for the city's future.

Expedited construction will help, he noted, and doing things like using precast parts and offering incentives for meeting or beating deadlines are two ways to accomplish this. Innovations like these and the ability of speeding delivery of engineering due to technology all play a role.

Construction costs are extremely important when renting properties, Kanner said. It is the largest driver of rent and reducing the cost of labor is crucial. While this needs to play out over the next four or five years, she is counting on a 3-4% reduction in wage and hour concessions, which will translate to a substantial dollar amount.

Kanner went on to say that the lessons learned from 9/11 and Superstorm Sandy continue to impact design and construction in New York City. Collaboration between contractors and subcontractors has increased, while the industry has seen improvements in logistics, timing and sustainability, among other things. Kanner also remarked on the opportunity government has to improve its methodology by mimicking the private sector. Wood agreed, and urged the city to be more open to regional and global best practices.

Peña-Mora also agreed, but noted that the city is legally bound by the procedures that currently are in place. This creates a "chasm" that needs to be crossed. Saying that his priority lies in modifying the city's procurement process, he questioned how to better allocate the risk inherent in a project.

Anderson then questioned the panel about whether they thought the cost of construction, which is the highest in the United States, could be sustained. Agreeing that the city needs to take a long-term view, the panelists concurred that NYC is a very attractive market for investors worldwide. It is both a safe haven and a good value, they determined.

Particular aspects of the cost issue were mentioned throughout the conversation. Wood predicted a decline in the cost of labor as the unions make adjustments. He also said innovative technology, new procurement methodologies and the entry of new and national subcontractors into the New York market all will combine to keep the market stable. Vanilla design is in the past, Gozdziwski observed, and innovation will be a driver in public procurement. He stressed the importance of the P3 process and the need for fewer regulations.

Kanner said the need to maintain and reconstruct the city's utility infrastructure is critical, especially since most of it is about 70 years old. The reliability of this infrastructure, she stated, is one of the first things major tenants question. Agreeing that some of the city's sewer pipes date from the 1890s, Peña-Mora stated that the city is looking at investing \$2 billion in sewers alone. But, he said, doing this properly meant collaboration on capital projects between the city and providers like Con Edison, Verizon and the DOT. He cautioned that the process was in its early phases.

The panel then discussed MWBE initiatives, which they approached in terms of goals rather than quotas. The biggest issue, they agreed, was risk. Wood suggested that some risk might be alleviated if the government issued credit to support their efforts. Kanner proposed joint ventures.

Anderson thanked the panel for a lively discussion and summed up the conversation by stating “there is no shortage of challenges for New York City’s construction industry.”

Ross closed by thanking the audience and the event’s co-sponsors, the New York Building Congress, the American Council of Engineering Companies of New York, and the American Institute of Architects – New York Chapter. Looking to the future, Ross expressed his excitement about the future of the Construction industry in New York. He also announced Anchin’s “**Ethics in the Construction Industry**” presentation on **Tuesday, October 28, 2014** at Anchin’s offices in New York City. For more information on this event or Anchin, go to [www.anchin.com](http://www.anchin.com).

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