

# SKYLINES

**#39**

**VOLUME ELEVEN  
SPRING 2021**

## **NEW CONSTRUCTION SAFETY LEGISLATION**

General contractors to be licensed by DOB, and more site safety supervision at larger work sites, among the proposed bills. p12

## **CONSTRUCTION JOBS TOOK HUGE HIT**

New York City had a 14% decline and over 22,000 jobs lost during February 2020–April 2021, according to AGC's report. p13

## **IT'S ALL FOR A GOOD CAUSE**

Skyline Restoration's 13th Annual Charitable Golf Classic is on July 12 at the Old Westbury Golf and Country Club. p15



**LEGALIZED  
ADULT-USE CANNABIS  
+  
ABSOLUTE LIABILITY  
SCAFFOLD LAW  
=  
?**

page 8





MONDAY  
**July 12**

**SKYLINE RESTORATION'S  
13th ANNUAL CHARITABLE GOLF CLASSIC**  
Benefiting The Skyline Charitable Foundation  
THE OLD WESTBURY GOLF & COUNTRY CLUB

REGISTER/SPONSOR/DONATE  
[golf2021.eventbrite.com](http://golf2021.eventbrite.com)



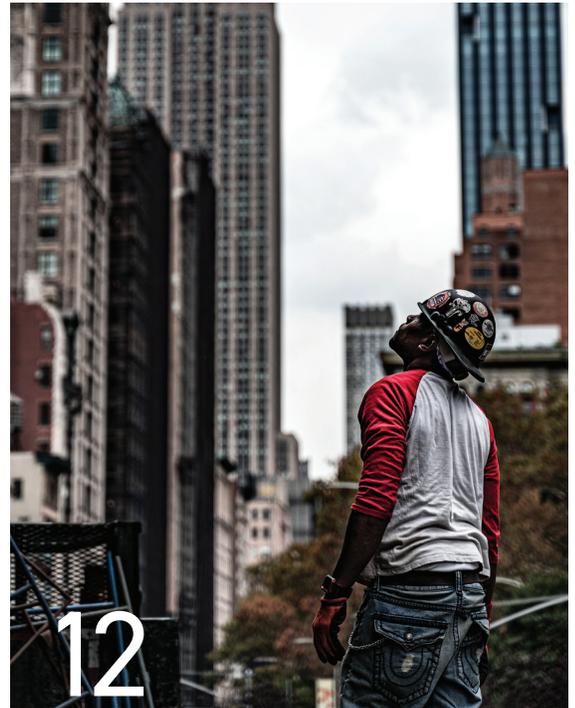
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14



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12



4



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**CERTIFICATE OF RECOGNITION**

The Occupational Safety and Health Administration recognizes

**Skyline Restoration Inc**  
49-28 31st Place

for participating in the OSHA  
**2021 National Safety Stand-Down to Prevent Falls in Construction**

**\*\* PLATINUM LEVEL \*\***  
**5+ YEAR PARTICIPANT**

*Scott C. Ketcham*  
Scott C. Ketcham, Director  
Directorate of Construction

**OSHA** Occupational Safety and Health Administration

Safety Pays. Falls Cost.

7

**Building Energy Efficiency Rating**

**B 75**

Building Information: DOB Property Address, Estimated Energy Consumption, etc.

Market Information: Market Value, etc.

**13**

**RACISM IS NOT AN OPTION.**

**SILENCE IS NOT AN OPTION.**

**CHANGE STARTS WITH US.**

## WORKING WITH THE BEST IN THE INDUSTRY



This month marks my fifteenth anniversary with Skyline Restoration. I vividly remember the day I accepted John Kalafatis' invitation to join the organization. The founder of the company, a leader in the building restoration industry, had given me an opportunity and a significant role in the realization of his —admittedly unconventional— vision which did not primarily

focus on profits, but on making this industry better, safer, educated and well-trained. A place where individuals and companies have the opportunity to grow and prosper while preserving the buildings and the history of our city.

Over the years, Skyline has received many awards for the high quality of craftsmanship and professionalism its workforce and executive teams have demonstrated in the execution of the various projects the organization has undertaken. Skyline has earned its position at the top of the building envelope restoration industry and it is the company of choice for some of the most respected building owners, property managers, architects, and engineers who trust Skyline for its integrity, experience and exemplary performance.

Skyline has also founded and co-founded non-profit organizations like the New York City Special Riggers Association ([nycsra.org](http://nycsra.org)) and the Andromeda Community Initiative ([andromedainitiative.org](http://andromedainitiative.org)). The latter was created to offer free educational and workforce development programs, and job-related training that prepares students for gainful employment in the construction and building restoration industry. Many of Skyline's executives serve on the boards of well-renowned institutions, including ICRI Metro-NY, IIBEC, NYCSRA, ACI, among others. Skyline's philanthropic arm, The Skyline Charitable Foundation, continues its mission to promote the well-being of individuals of all ages and backgrounds by helping them overcome challenges that otherwise limit their physical, mental and social growth. Early last year, at the beginning of the Covid-19 pandemic and while most of the construction industry was at a standstill, we launched —and continue to operate— RAP4Bronx ([rap4bronx.org](http://rap4bronx.org)), a relief access program to collect and donate food and essential supplies to first-line workers, construction workers, families, seniors and vulnerable residents in The Bronx and beyond. Since then, we have been able to deliver over 1.3 million meals to over 100 locations (page 14).

And last but not least, this newsletter —SKYLINES— Skyline Restoration's quarterly publication launched in the Spring of 2010 and now in its eleventh year, continues to serve as a means of sharing information, ideas, and special events with members of our industry and, as always, we invite your questions, your comments and your input.

I am very proud to continue contributing to the realization of this honorable vision with the same passion and focus, regardless of the challenges and risk this industry endures. I am looking forward to seeing you at Skyline's 13th Annual Charitable Golf Classic on July 12, at the Old Westbury Golf and Country Club. It's for a good cause!

All the best,  
Eva Hatzaki, editor

### 04 **Lenore Janis, a trailblazer for women, 1934-2021**

A "force of nature" in the construction industry who created "thousands of cracks in the concrete ceiling of a male-dominated business."

### 05 **AACT receives AMPP (former SSPC) accreditation**

The Andromeda Academy of Construction Trades expands its portfolio of training courses and certifications.

### 06 **Commissioner LaRocca predicts 2021 to be "our safest year yet"**

DOB's 2nd annual Build Safe | Live Safe Digital Construction Safety Conference offered Worker Safety Sessions in four languages.

### 13 **Penalties for owners who fail to post an Energy Efficiency Rating Label**

As required by Local Law 33 of 2018 for buildings that appear on the NYC Benchmarking Covered Buildings List.

### 15 **Skyline's 13th Annual Charitable Golf Classic is on July 12**

To register, sponsor, donate, please visit [golf2021.eventbrite.com](http://golf2021.eventbrite.com) or call 718.937.5353

### 10 **NY legalizes adult-use cannabis but retains unjust "Scaffold Law"**

Why is reform of the absolute provision of Labor 240 more urgent than ever now?

### 12 **New safety legislation and construction code revisions**

General contractors to be licensed by DOB, and more site safety supervision at larger work sites, among the proposed construction safety bills.

### 14 **RAP4Bronx - In it for the long haul**

The Skyline Charitable Foundation's Relief Access Program celebrates first anniversary exceeding 1.3 million meals delivered.

### 15 **Skyline and Harlem Grown**

A collaboration with the non-profit organization to build a garden on the property of the Thurgood Marshall Academy Lower School .

### 15 **Over 14% decline in construction jobs in New York City**

During the February 2020–April 2021 period, according to the Associated General Contractors of America.

## LENORE JANIS, A TRAILBLAZER FOR WOMEN, 1934-2021

Lenore Janis, a founder and longtime president of Professional Women in Construction (PWC) which celebrated its 40th anniversary last year, died on January 31, 2021.

The feature obit in the New York Times called Janis "a force of nature" in the industry and credited her for leaving "thousands of cracks in the concrete ceiling of a male-dominated business." Real Estate Weekly dubbed her a "construction pioneer."

Janis founded Era Steel, named after the Equal Rights Amendment pending ratification at the time, in 1979. In 1980, she and 11 other women created PWC to open opportunities and expand participation for women professionals, entrepreneurs and executives in construction and related industries. Just three years later, Governor Mario M. Cuomo established an office to ensure that more construction



Lenore Janis and SKYlines editor Eva Hatzaki at a PWC golf outing in 2013.

contracts would go to women-owned businesses in New York State.

In 1986, Janis, under Mayor Edward Koch, became the first woman director of the City's Bureau of Building Management in charge of 250 tradesmen and multi-million-dollar projects. Among her accomplishments was the installation of women's locker rooms in the Department

of Sanitation facilities. She left government work in 1995 to devote herself full-time to PWC until 2015. Annual events such as Meet the Construction Chiefs and Opportunity Fairs grew in number and popularity. Janis launched PWC Golf Outings that invited women to take part in what was traditionally a 'good old boys' networking venue.

Janis has been honored by

numerous organizations including the American ORT; NYC NOW; the Association of Women Construction Workers of America (AWCWA); the Concrete Industry Board – alongside nine men; the Brick Industry Association; the NY Women's Chamber of Commerce; and the General Society of Mechanics & Tradesmen. She wrote a chapter, "Women in Construction," for Construction in Cities. She was inducted into the Hall of Fame of her alma mater, White Plains High School, attended Bennington College and graduated from the University of Connecticut.

In a 2014 interview, Janis reflected on the industry's evolution noting that in 1980 banks and suppliers balked at granting loans to women-owned businesses. Seeing progress over time she said, "When a woman steps into the room, she may even be pleasantly surprised to find she's not the only woman at the table."

## US DEPARTMENT OF LABOR ANNOUNCES NEW MEMBERS OF ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

**U.S. Secretary of Labor Marty Walsh has appointed 15 individuals to serve as members on the Advisory Committee on Construction Safety and Health, which provides advice and assistance to the assistant secretary on occupational safety and health in construction standards.**

Members will serve two-year terms and represent the interests of the public, employers, employees, and state and federal government. The committee generally meets two to four times a year. The appointed members include the following:

**Five employee representatives:**

- Cheryl M. Ambrose, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the U.S. and Canada.
- Christina Trahan Cain, North America's Building Trades Unions.
- Wayne J. Creasap II, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers.
- Ryan Papariello, Laborers Health and Safety Fund of North America.
- David Wysocki, International Masonry Training and Education Foundation.

**Five employer representatives:**

- Kevin Cannon, Associated General Contractors of America.
- Julie Carter, Roy Anderson Corp.
- Fravel E. Combs, M.A. Mortenson Company.
- Greg Sizemore, Associated Builders and Contractors.
- Wesley L. Wheeler, National Electrical Contractors Association.

**Two public representatives:**

- Christopher Fought, Merck.
- Ronald Sokol, Safety Council of Texas City.

**Two state government representatives:**

- Christopher Scott Mabry, North Carolina Department of Labor

Occupational Safety and Health Division.

- Charles Stribling, Kentucky Labor Cabinet Department of Workplace Standards.

**One federal government representative designated by the U.S. Department of Health and Human Services secretary:**

- G. Scott Earnest, National Institute for Occupational Safety and Health.

Christina Trahan Cain will serve as the ACCSH chair.

For more information on the Advisory Committee on Construction Safety and Health please visit [www.osha.gov](http://www.osha.gov).

# AACT RECEIVES AMPP (FORMER SSPC) ACCREDITATION

## THE ANDROMEDA ACADEMY OF CONSTRUCTION TRADES EXPANDS ITS PORTFOLIO OF TRAINING COURSES AND CERTIFICATIONS

**ANDROMEDA**  
ACADEMY OF CONSTRUCTION TRADES LLC

**AMPP™**

Following one of the industry's most rigorous vetting processes, [Andromeda Academy of Construction Trades \(AACT\)](#) joined a select few as a licensee of SSPC (Society of Protective Coatings, founded as Steel Structures Painting Council in 1950), now AMPP (Association for Materials Protection and Performance).

AMPP is not only the gold standard in lead abatement, specifically the removal and disposal of lead-based coatings on industrial structures such as bridges, tanks, and ships, it is the only standard recognized worldwide.

Today, AACT is one of four AMPP course providers in New York State and one of just eight throughout North America including Canada and Mexico. AACT originally sought AMPP accreditation because, as AACT Director **Jake Toth, CHST**, explained, "As a training entity that strives for excellence in education and to differentiate ourselves, we felt that it was important to be aligned with a professional organization such as AMPP whose vision we share." Only AMPP approved and accredited providers can offer training for courses C3 and C5. The intensive 32-hour C3 course is conducted over four consecutive 8-hour days and concludes with a final exam. Documentation of the one-day 8-hour C5 refresher course,

available to those who have successfully completed and passed C3, is required for competent persons overseeing certain types of lead abatement projects. It is taken primarily by foremen, production supervisors, engineers, and inspectors. While C5 can be taught virtually, instruction must be live and interactive, never online and on-demand. Student cameras must remain on at all times. An AMPP staff person monitors the course and is present throughout the exam.

"It's similar to an auditing process," said AMPP Training Manager **Sara Badami**.

The small number of licensees results from AMPP's placing quality first and foremost. As the website states, the nonprofit organization ensures that for a company to get the AMPP seal of approval, it must prove to rank among "the best of the best." Demand is also a factor. AMPP licensees are located primarily in the Northeast because there is less corrosion on bridges and other structures in dryer and warmer climates that are not as prone to snow and ice. However, instruction is available throughout the continent. When a need arises, an AMPP instructor will travel to a remediation site. **Terry Sowers**, now a consultant with AMPP, was one of the key persons who introduced C3 and C5 to SSPC in 1995. She noted that the organization limits the



PHOTO: ADOBE STOCK

**AMPP is not only the gold standard in lead abatement, specifically the removal and disposal of lead-based coatings on industrial structures such as bridges, tanks, and ships, it is the only standard recognized worldwide.**

number of course providers because "we try to balance the need in the marketplace with availability of instruction." The commitment and expense for licensees is sizeable. The instructor must be highly qualified with proven credentials. Moreover, the equipment for C3, which can only be offered in-person, requires a significant investment. The Andromeda Academy of Construction Trades supplies over 60 items including a velometer to verify air flow within a containment area; a Magnehelic® Gauge, which measures such variables as fan and blower pressures; and a Negative Air Containment Model to gauge airflow and negative pressure. AMPP Director of Training **Jennifer Merck** said at the time of AACT's acceptance that

"Andromeda showed enthusiasm and a high level of attention to detail throughout the review process." She expressed "high hopes for this partnership based on the show of diligence..." Badami recently concurred, saying that "AMPP was impressed with Andromeda's training background and ...that they were an IACET accredited agency." Badami noted that AACT continued AMPP training throughout the pandemic. "They ran with it. It was good for the industry," she said. In every way, AACT is committed to bolstering the needs and interests of the industry. It continues to, as Toth said, share a singular vision, one where consistently raising the bar to meet and exceed all challenges is not so much a goal as the foundation underlying all.

DOB'S 2ND ANNUAL BUILD SAFE | LIVE SAFE DIGITAL CONSTRUCTION SAFETY CONFERENCE

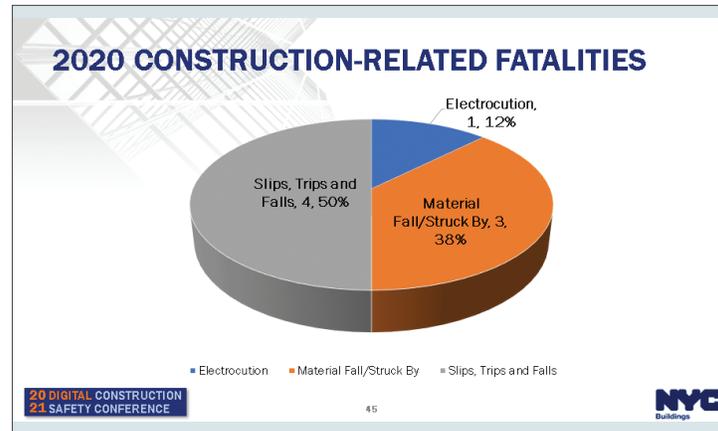
# COMMISSIONER LAROCCA PREDICTS 2021 TO BE "OUR SAFEST YEAR YET"

*The free and open to the public, five-day-long event hosted by the NYC Department of Buildings offered Worker Safety Sessions in four languages: English, Spanish, Mandarin and Polish*

Last year was, without a doubt, "unprecedented" said NYC DOB Commissioner Melanie LaRocca. While the year, as she noted, witnessed a near complete halt to all construction, it was also a time that proved the strength and perseverance of an industry that remained "incredibly resilient" in the face of Covid-19.

The DOB successfully pivoted to digital, even creating the first pilot remote video inspection. Moreover, as DOB Deputy Commissioner of Enforcement Timothy Hogan pointed out, there was a drop in construction-related injuries and fatalities by roughly a third each and close to total DOB compliance.

LaRocca and Hogan shared these observations at the Construction Safety 2020-21 Retrospective, the Monday, May 3 session that opened the DOB's second annual Build Safe | Live Safe 2021 Digital Construction Safety Conference that ran through Friday, May 7,



2020 construction-related fatalities in New York City caused mainly by slips, trips, falls 50%; materials struck by 38%; and electrocution 12%.

2021. The event coincided with National Construction Safety Week and OSHA's National Safety Stand-Down to Prevent Falls in Construction. Free and open to the public, it offered Worker Safety sessions in four languages over consecutive evenings for the first time: English, Spanish, Mandarin and Polish. Many courses were eligible for AIA continuing education credits. Hogan led off by telling participants that the DOB will soon be issuing universal Site Safety Training cards to replace existing cards. He credited the industry for responding "in an overwhelming fashion" in 2020. From a grand total of inspections approaching the half million mark - 488,693 - there were only 386 non-compliance violations and 76 stop-work orders, both well under 1% of the total.

"Kudos to your tenacity in meeting the guidelines," said

Hogan.

LaRocca reported that nearly ¾ of work sites started with deficiencies, yet ¾ are now free of them. With Local Law 196 fully implemented, the goal is to "continue to progress and become a safer industry as a whole," she said.

The Commissioner noted that general contractors might soon need to be licensed. The pending legislation, when passed, "will allow us for the first time to hold bad actors accountable for their misdoings." The requirement for dedicated site safety professionals being on the job site will be expanded. LaRocca concluded that "2021 is going to be a great year for us. It's going to be our safest year yet."

Hogan reported a 34% drop in injuries and a 33% reduction in fatalities. He detailed case histories of the year's eight fatalities - down from 12 in 2019

- and near misses, "unfortunate incidents that could have been worse." In one case, three workers were saved as they dangled from harnesses, "a stark reminder to tie off."

The evening of opening day, **Ausberto ("Augie") Huertas Jr.**, assistant commissioner for construction safety compliance, and **Patricia Fernandez**, director of construction safety standards & guidance, offered a Worker Safety overview. Responding to questions online were **Ronald Mener**, director of construction safety compliance; **Christian Gandolfo**, assistant chief inspector, construction safety compliance; and **Wilson Ortiz**, curriculum developer Buildings University.

Fernandez listed and gave examples of the dangers of the **Top 10 Site Safety Monitoring Violations:**

1. Failure to follow approved drawings
2. Failure to maintain safety documents
3. Failure to perform duties
4. Failure to maintain a construction fence
5. Failure to comply with fire code
6. Failure to maintain scaffold
7. Failure to obtain required training - including proper use of equipment
8. Failure to maintain temporary construction equipment permits
9. Temporary construction equipment on site expired
10. Failure to install/maintain guard rails.

Huertas spoke of the need for

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The Occupational Safety and Health Administration recognizes

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**2021 National Safety Stand-Down to Prevent Falls in Construction**

**\*\* PLATINUM LEVEL \*\***  
**5+ YEAR PARTICIPANT**

**OSHA** Occupational Safety and Health Administration  
Safety Pays. Falls Cost.

Scott C. Ketchum, Director  
Directorate of Construction

**Skyline Restoration proudly participated again this year in the OSHA 2021 National Safety Stand-Down To Prevent Falls in Construction. The event, which raises fall hazard awareness in an effort to stop fall fatalities and injuries, coincided with the Construction Safety Week and the DOB's Build Safe | Live Safe Digital Construction Safety Conference.**

training, then listed who does and who does not require site safety training –the latter category includes all who aren't part of the active construction crew such as owners, developers, project managers, construction managers, GCs, PEs, architects, engineers and delivery persons. He outlined requirements for the Covid-19 Site Safety plan such as signage and a 50% occupancy limit for hoists and elevators. Huertas also stressed the importance of such steps as signing the logbook daily, maintaining presence on site while work is performed, and designating a competent person. He detailed the duties and responsibilities of the critically important competent person. Fernandez chronicled Near Misses followed by Incidents with Injuries. Huertas reviewed fatalities caused mainly by slips, trips, falls 50%; materials struck

by 38%; and electrocution 12%. He reminded all that "Safety starts with you." Huertas concluded the program by outlining **Workers' Rights**:

- Right to a safe workplace
- Right to receive training and information on hazards and how to prevent them
- Right to review records of injuries and illness that occur in the workplace
- Right to report safety concerns without danger of retaliation
- Right to participate in an OSHA investigation
- Right to receive copies of workplace medical records

He reminded participants that one can lodge an anonymous complaint with 311 if a hazard is noticed. A safety professional should be notified if an incident occurs. Questions for the NYC DOB on site safety training can be emailed to [LocalLaw196@buildings.nyc.gov](mailto:LocalLaw196@buildings.nyc.gov)

**NYC Buildings** **WORKER ALERT FALL PREVENTION**

**WARNING: Worker Falls are the Leading Cause of Death and Serious Injury**

Since 2015 there have been **37 fatalities** and **1,029 injuries** resulting from worker falls – all of which were entirely preventable. Be aware of your surroundings, especially around edges, shafts, and floor openings. Never work near an edge, open shaft, or floor opening without proper fall protection. This includes those workers performing roofing, solar panel, antenna, and chimney work.

Follow the guidance below to help ensure you return to your family safely following your shift:

**Get Safety Training**

Obtain 40 hours of Site Safety Training, including 8 hours of Fall Prevention training when performing any construction work that includes fall hazards. Site Safety Training is required on construction projects with a Site Safety Manager, Site Safety Coordinator, or Construction Superintendent. Free training can be found at <https://www1.nyc.gov/site/sbs/careers/industrial-training.page>.

Your supervisor is required to provide you with job-specific training in the language you speak of the fall hazards that exist and how to avoid them.

**Drops Greater than Six Feet Must Use Fall Protection**

If you are working above a six foot drop your employer must provide fall protection. This can include providing you with a safety harness or installing guard rails or hole coverings.

**Slips and Trips**

Be on the lookout for slipping and tripping hazards.

build safe | live safe [nyc.gov/nycsafety](http://nyc.gov/nycsafety)

**NYC Buildings** **WORKER ALERT: Worker Falls are Preventable** page 2 of 2

**Safety Harnesses**

On February 17, 2021 a worker performing roofing work without a harness fell three stories to his death. A safety harness must be properly connected to a lifeline.

**Wearing a harness is not enough!** You must be tied off to a secured lifeline for it to work.

**Floor and Shaft Openings**

Floor and shaft openings must have fall protection, such as guardrails or hole coverings.

**Guardrails**

A typical wooden guardrail consists of a top rail (39" - 45" high), midrail (midway between the top rail and floor), and toeboard (minimum 3.5" high), attached to 2" x 4" posts spaced no more than 8' apart. Guardrails must be able to withstand at least 200 pounds of lateral force.

**Hole Coverings**

On February 15, 2021 a worker fell one story to his death through a floor opening whose covering was inadequately sized and not secured. Be sure hole coverings are larger than the hole itself, able to support twice the weight of the worker, material, or equipment above, secured to prevent displacement, and marked to provide warning of the hazard.

**Leading Edges**

Unprotected sides and edges of any walking surface, be it a floor or roof, are referred to as **leading edges** and must have fall protection such as guardrails or safety netting.

**More Information...**

- Certain scopes of work may allow for or require alternatives. Visit [www.osha.gov/stopfalls/index.html](http://www.osha.gov/stopfalls/index.html) for more information.
- If you notice any fall hazards, stop what you are doing and alert your supervisor immediately. Call 311 to notify DOB if your employer does not provide you with a safe working environment.
- DOB worker safety presentations can be found at [www.nyc.gov/nycsafety](http://www.nyc.gov/nycsafety).

# LEGALIZED ADULT-USE CANNABIS + ABSOLUTE LIABILITY SCAFFOLD LAW = ?

## WHY IS REFORM OF LABOR LAW 240 MORE URGENT THAN EVER NOW?

*On March 31, New York became the 15th state in the nation to legalize cannabis. For the construction industry, the timing couldn't be worse.*

For years, construction industry associations and other supporters and sympathizers have railed to reform New York Labor Law 240(1), commonly known as the Scaffold Law.

The primary goal is to switch the onerous "absolute liability" clause to "comparative liability." In its present, antiquated form, employers and building owners are 100% liable for any gravity-related injury incurred by a worker at a site – if the worker falls or is struck by a falling object, regardless of the worker's conduct or gross negligence. Comparative liability would distribute fault among all involved parties.

**NB:** The only stipulation under which an employer or owner might not be liable is "sole proximate cause" which applies if it can be proven that the worker's conduct was the SOLE cause of the accident. Such an argument is difficult to prove and often fails.

"Was the worker intoxicated at the time of the accident, following a legal, but hazardous 'liquid lunch?'" No change in "absolute liability".

"Was the worker high?" The employer or owner remains absolutely liable.

It is hardly surprising that the chorus of voices championing reform has risen several decibels in the months preceding and following the legalization.

The Scaffold Law dates back to 1885, the year the Dow Jones index debuted, and the first modern skyscraper was erected – not in Gotham, in Chicago. The law was enacted at a time before Workers Compensation,

site safety training, personal protective equipment (PPEs) and other measures to protect workers' safety and New York State remains the only state in the union to retain the law. As a result, soaring insurance rates make it more expensive to build statewide than anywhere in the nation. Furthermore, a liability suit could force a contractor, especially a smaller firm, out of business.

In a recent interview with the [White Plains CitizeNetReporter](#), **Santino Thomas**, the spokesperson for the **Associated Builders & Contractors of the Empire State**, said, "It's just a matter of time. It's not 'if' but 'when' the situation will arise where you will have a worker under the influence be hurt on the job." Thomas noted that his association represents hundreds of contractors throughout New York State who in turn employ thousands upon thousands of workers.

"Our contractors are going to be on the hook for this ... should they go under because of a suit where they are, in our opinion, wrongfully held 100% responsible, that's not only a contractor losing their livelihood but every person that contractor employs losing their livelihood, their family's ability to put food on the table." Thomas noted that the Governor, the State Senate and the Assembly have been informed of the issue yet "these concerns were just largely ignored."

"NY pot law creates safety, liability issues for contractors," an article in [Construction Dive](#), quoted **Mike Elmendorf**, CEO

of the **Associated General Contractors of New York State** who said, "Impairment isn't a defense under the Scaffold Law... We have real, significant concerns, not just about safety, but also because this just adds more liability into a universe for construction in New York where you already have absolute liability. It's a real black hole at this point."

### Rise in usage may lead to a rise in insurance premiums

It is extremely likely that the legalization of marijuana will lead to increased usage. Consequently, the perception of an increase in construction accidents is apt to cause a rise, possibly a spike, in already inflated insurance premiums.

"It's only going to get worse. We will have more [workers] stoned. [We need to] be more proactive with the legalization of pot," said **Mario Castellitto**, an attorney partner with **Traub Lieberman**, at a recent webinar sponsored by the **Subcontractors Trade Association (STA)**, "The Ugly Truth About New York's Scaffold Law." Castellitto noted too that marijuana is available in many forms such as edible gummies that are odorless and undetectable without investigation.

On March 17, a coalition of associations wrote to the Governor and representatives urging reform prior to the pending legalization. The [letter](#) was signed by the **Associated General Contractors**

Continued on page 10

**"THIS JUST  
ADDS MORE  
LIABILITY INTO  
A UNIVERSE FOR  
CONSTRUCTION IN  
NEW YORK WHERE  
YOU ALREADY  
HAVE ABSOLUTE  
LIABILITY. IT'S A  
REAL BLACK HOLE  
AT THIS POINT."**

*Mike Elmendorf, CEO  
Associated General Contractors of  
New York State*



**"REFORMING  
OUR INSURANCE  
LAWS TO REFLECT  
COMPARATIVE  
LIABILITY WILL  
MAINTAIN  
WORKPLACE  
SAFETY, INSTILL  
ACCOUNTABILITY,  
AND INCREASE THE  
COMPETITIVENESS  
OF NEW YORK."**

*Congressman Chris Jacobs (NY-27)*

## “SCAFFOLD LAW IS HOLDING BACK AFFORDABLE HOUSING”

*In an Op-Ed in Crain's New York Business titled "New York's Scaffold Law is holding back affordable housing" Jolie Milstein, president and CEO of the New York State Association for Affordable Housing (NYSFAFH), stresses the immediate need to reform "the archaic Scaffold Law [which] stands between New Yorkers and the high-quality, modern infrastructure they deserve." Milstein urges the state to "engage in some serious soul-searching following the social and economic devastation of the pandemic, which underscored the fragility of the housing situation in the state." This "byzantine system" has "real-life consequences for the low- and middle-income households that form the backbone of the Empire State. Analysis shows that the Scaffold Law drives up construction costs as much as 7% on a given project; without it, New York could have created and preserved an additional 12,600 affordable homes in the past five years alone." The NYSFAFH president and CEO reminds us that the Scaffold Law was enacted a decade before The Bronx joined NYC and its reform should be simple, simpler than changes in zoning and land use. In her own words, "we just have to have the will and the conviction to finally do it."*

# LEGALIZED ADULT-USE CANNABIS +

Continued from page 8

of New York State, the New York State Builders Association, the Capital Region Chamber, the New York Federation for Independent Business and many other organizations. It read, in part, "Adult use cannabis poses an unmanageable insurance risk for contractors, property owners, and governmental entities because of New York's 'Scaffold Law'... The tremendous costs and limited availability of the commercial general liability insurance have an impact across New York because construction costs go up, fewer workers are hired, consumers pay higher prices for goods and services, and the economy suffers."

The letter summed up the issue saying: "Absolute liability means that the contributing fault of an injured worker, such as consuming cannabis at the workplace will be virtually irrelevant in court."

The Board of Directors of the Home Builders & Remodelers of Central New York posted an OpEd in [syracuse.com](http://syracuse.com) that read, in part: "For large infrastructure projects, like schools and bridges, the Scaffold Law adds over a half a billion dollars in annual costs to the state construction budget." The group [had argued](#) that the Scaffold Law must be fixed before cannabis legalization passes.

### The impact on MBEs and MWBEs

All construction companies – large, medium, small – are impacted by the scaffold law including the most vulnerable firms – MBES and MWBES. The result is in direct opposition to the intent of the legalization. The legalization of cannabis intends, in part, to correct a systemic injustice: the disproportionate effect of



criminalization on Black and brown persons and communities. As the [press release](#) from the Governor's office that announced the pending legislation stated: "The legislation ...creates a social and economic equity program to assist individuals disproportionately impacted by cannabis enforcement that want to participate in the industry." The Scaffold Law impacts all industry stakeholders. MBEs (minority-owned business enterprises) and MWBEs (minority and women-owned business enterprises) are at a distinct disadvantage. Many are small, possibly newly-formed, and struggling to survive throughout the pandemic. Spiking insurance rates may be the proverbial nail in the coffin, forcing businesses to shutter. Would-be entrepreneurs wishing to launch a new construction firm will surely be discouraged if not prohibited from starting.

**A crisis in insurance availability**  
Last December, **Harlem World Magazine** posted a [letter](#) signed by **Nayan Parikh**, president of the **NY Tri-State National Association**

**of Minority Contractors.** The letter said that "New York State is facing a crisis in construction insurance availability. These circumstances, which disproportionately harm MWBE contractors, could be alleviated by fixing the legal anomaly that is the Scaffold Law's absolute liability standard." Parikh also noted that due to its costly consequences, retaining the Scaffold Law contradicts the purpose of the State's MBE and MWBE participation programs: "For MWBEs, this is more than just a cost issue – this is an insurance availability issue that threatens the existence of most MWBE construction firms.... The goal of New York's MWBE program is to create a balanced playing field. The Scaffold Law's strict liability is the antithesis of that laudable goal."

### The recovery needs to succeed

New York State and City, along with the nation, are transitioning to recovery as the pandemic improves due to mass vaccinations. It's a time when the industry needs incentives to help it reinvigorate, not blockades that could hurt businesses and employment, hurdles that could depress efforts to restore and rebuild.

**Congressman Chris Jacobs** introduced an [Infrastructure Expansion Act](#) last September which would impose a comparative negligence liability standard, pre-empting the Scaffold Law on all projects receiving federal funding. Those lobbying for exempting federally funded projects from the Scaffold Law are clear in their message: The built environment cannot afford any more barriers along the road to recovery. After all - If we can't make it here – what then?

# ABSOLUTE LIABILITY SCAFFOLD LAW = ?

**"**Inevitably, legalization [of cannabis] will lead to increased use of cannabis in general...

Much like the legal consumption of alcohol, the use of cannabis impairs core human cognitive and biomechanical human functionality. As such, workers using either will naturally be at a higher probability of accident... With absolute, or strict, liability, if a contractor is determined to be even 1 percent at fault, then any contributing factors into an injury would not be considered. There are hundreds of examples of construction site accidents where alcohol as a contributing or mitigating factor was not considered - identical fact patterns will emerge with cannabis. The reform agenda is not over-reaching - it is simply to make the liability standard comparative, meaning, if a worker is intoxicated and gets injured, the intoxication is measured as a contributing factor. It is not taking away a worker's rights to sue and it is not lessening any safety standards.

The arguments and reasoning driving scaffold law reform with the legalization of cannabis are so obvious, so common sense, that I trust New York legislators are looking at quick reform... Otherwise, expect the most overpriced, inefficient, and litigious construction/infrastructure environment in the country to keep getting worse. It'll be hard to keep New York City as the financial epicenter of the world when our roads and buildings are crumbling - but hey, the courts will be busy!"

**Rygo E. Foss, General Counsel, Andromeda Advantage Inc.**



**"**New York courts have long held that an employee's intoxication is not a defense to a Scaffold Law claim. It is actually in the state's jury instructions for Scaffold Law cases. This is precisely why the Scaffold Law actually makes workplaces less safe. Since there are no legal consequences for someone who is high on the job, we will have more people high on the job. That makes everyone less safe. We expect this will have a significant impact on premiums, increasing costs for builders at the worst possible time. New York already has the highest insurance costs and the lowest insurance availability thanks to the Scaffold Law. This will only exacerbate the state's construction insurance crisis. The coalition to fix the Scaffold Law is incredibly broad and includes the Conference of Mayors, the New York School Boards Association, the Citizens Budget Commission and Habitat for Humanity."

**Tom Stebbins, executive director, Lawsuit Reform Alliance of New York**



**"**Reforming the "Scaffold Law" in New York State would unleash our state's economy, attract new investment, and drive down construction costs. New York is the only state in the union to still impose an absolute liability standard on employers for gravity related injuries. This results in inflated construction costs, in some cases by hundreds of millions of dollars, while having no positive impact on safety. These costs are then handed down to the citizens of New York, resulting in a high cost of living in New York that is stagnating our economy and driving people to lower cost and lower tax states. Reforming our insurance laws to reflect comparative liability will maintain workplace safety, instill accountability, and increase the competitiveness of New York."

**Congressman Chris Jacobs (NY-27)**

**"**Scaffold Law will not require the employee to have any responsibility for being impaired just as cases with alcohol, thus putting more of a burden on the contractor to properly police the job site for any substance impaired employees. NYC, NYS and USA safety regulations do not identify the use of cannabis in any inspections which can result in a stop work order for dangerous conditions. They may be involved after an incident which may have been the cause of any accident. It is very important for a contractor to have their field supervisors trained in identifying potentially impaired employees and provide guidance for dealing with employees suspected to be under the influence. At this time this type of training is optional, but could very well become mandatory like most safety training. The various trade associations should be educating their members and encouraging them to adhere to this standard. Once this training becomes an industry standard, it will preclude many of the workers from participating in dangerous substance abuse on the job, with the threat of losing their job and potentially a career. Depending on the number of cannabis-related accidents, it will most likely be at that time that the regulators will make the training mandatory & part of the licensing process. Effect on insurance availability and affordability: Safe work means fewer accidents and in turn a lower cost of Insurance."

**James A. Fenniman, ARM, area executive vice president, senior director - Construction Practice, A.J. Gallagher**

**TO LEARN MORE AND TO SUPPORT THE SCAFFOLD LAW REFORM, VISIT [WWW.BILLIONDOLLARFIX.NYC](http://WWW.BILLIONDOLLARFIX.NYC)**

## THE NYC DEPARTMENT OF BUILDINGS ANNOUNCES PROPOSED BILLS

# NEW SAFETY LEGISLATION AND SWEEPING CODE REVISIONS



PHOTO: LERONE PIETERS ON UNSPLASH

*General contractors to be licensed by DOB, and more site safety supervision at larger work sites, among the proposed construction safety bills.*

On April 22, 2021 the New York City Department of Buildings (DOB) announced five new construction safety bills and comprehensive updates to NYC's Construction Codes introduced by the New York City Council.

According to DOB's press release, the newly introduced code revisions and safety requirements would help further reduce injuries on construction sites by licensing general contractors who perform construction work, requiring more site safety supervision at larger work sites that present the greatest safety risk, strengthening requirements for cold-formed steel construction, and permanently banning the dangerous use of stand-off

brackets for suspended scaffold work.

The five proposed construction safety bills include:

**1) [Intro. 2278: Licensing General Contractors](#)**

Requires all general contractors to be licensed by DOB and to demonstrate their experience, including practical experience working in the construction industry, receive site safety training, and be responsible for the work they perform under their permits.

Allows DOB to take disciplinary action against general contractors, including, if necessary, suspending or revoking a general contractor's license.

**2) [Intro. 2263: Requiring DOB-Licensed Safety Professionals on Major Construction Work Sites Between 7 - 9 Stories](#)**

Drops the threshold to require full-time DOB-Licensed Site Safety Coordinators (SSCs) or Site Safety Managers (SSMs) to seven stories and above. Requires contractors to submit Site Safety Plans to DOB for review and approval before work on major projects in the seven to nine story range can commence.

**3) [Intro 2276: Requiring DOB-Licensed Construction Superintendents on Major Construction Work Sites Seven Stories and Above](#)**

DOB-Licensed Construction Superintendents would be

required to serve full-time alongside SSCs or SSMs at major construction projects starting at seven stories and above and assume responsibility for site safety and overall management of the construction project. Limits the number of non-major construction projects for which a Construction Superintendent may be designated, with the goal of having a dedicated Construction Superintendent at non-major construction projects for which they are required by 2026.

#### [4\) Intro. 2264: Strengthening Requirements For Cold-Formed Steel Construction](#)

Builds upon a [2019 Buildings Bulletin](#) issued by DOB creating new safety requirements for special inspectors, construction superintendents, design professionals, and permit holders who are performing cold-formed steel light-frame construction work in New York City. Aimed at preventing the overloading and improper installation of cold-formed steel, which have previously resulted in injuries, fatalities, and property damage at construction sites in New York City.

#### [5\) Intro. 2262: Banning Stand-Off Brackets](#)

Builds upon a [2019 Buildings Bulletin](#) issued by DOB, which prohibited the use of stand-off brackets for C-hook suspended scaffold installations, by making that prohibition permanent.

#### **Construction Code Revisions**

The proposed construction code revisions would be the first comprehensive updates to the current Administrative, Plumbing, Building, Mechanical and Fuel Gas Codes since 2014. The revisions were drafted by technical committees comprised of engineers, architects, attorneys, planners, tradespeople, representatives of the

construction industry, labor, real estate industry, utility companies, as well as DOB and interagency stakeholders.

A total of 627 new or expanded changes to the existing codes are proposed, along with thousands of minor changes. The committee updates were guided by aligning with improved national safety standards and technical advancements since the last revision cycle. When enacted, they would go into effect the following year.

To read DOB's press release please visit <https://www1.nyc.gov/site/buildings/about/pr-cons-safety-bill-and-code-revisions.page>



*"I do not accept that construction deaths are inevitable. I do not accept that buildings should explode from gas leaks or that elevator mishaps lead to death. We must strive for safety through thoughtful legislation that incorporates the input from a wide range of stakeholders. This sweeping legislation and code revision puts us on the path to a healthier, more sustainable city," said Council Member Robert E. Cornegy, Jr., Chair of the Committee on Housing and Buildings, and Brooklyn Borough president candidate.*



*"The bills being introduced today are a significant step forward in our fight to protect New Yorkers. I am especially proud to support legislation which increases protections for tenants while construction is happening in their buildings," said Council Member Helen Rosenthal. "Construction as harassment is an ongoing issue in my district, leading to displacement and loss of affordable apartments. I'm pleased to see the City's Department of Buildings take the lead in protecting tenants against predatory landlords."*



*"For far too long workers have been subject to subpar working conditions leading to injuries and worse, fatalities. The work by DOB together with this set of bills will advance requirements to ensure there are safety plans and measures in place as well as experienced and licensed staff at construction sites," said Council Member Francisco Moya. "This is how we will work towards making contractors accountable to keep the public and workers safe."*

## JOBS IN NYC CONSTRUCTION TOOK HUGE HIT DURING THE PANDEMIC, OVER 14% DECLINE

New York State has lost 40,700 (-5%) construction jobs according to the Associated General Contractors of America (AGC) "State List of Construction Employment by Metropolitan Area or Division, February 2020-April 2021". In the same 14-month period, over half of them (22,300 / -14%) were lost in New York City, and 7,000 / -9%) were lost in Nassau and Suffolk counties. According to AGC's data, Odessa, TX was the biggest loser in construction jobs (8,000 / -39%) while Sierra Vista-Douglas in Arizona had the biggest increase (1,100 / +44%) among all areas in the nation.

*"The pandemic has had a devastating impact on the construction industry in New York City," State Comptroller Thomas P. DiNapoli said. "The sector started back up last June, but even with pent-up demand for certain projects, jobs are still lagging behind the employment rebound in other industries. The state and city have important roles to play in distributing federal relief and the Biden administration's infrastructure bill could be a boon for the industry as private investment will likely take longer to fully rebound." To view AGC's full report, visit [www.agc.org](http://www.agc.org)*

# IN IT FOR THE LONG HAUL

THE SKYLINE CHARITABLE FOUNDATION'S RELIEF ACCESS PROGRAM CELEBRATES FIRST ANNIVERSARY EXCEEDING 1.3 MILLION MEALS DELIVERED



Shana McCormick, RAP4Bronx program director.



On April 3rd, an Easter egg hunt was organized for the children at Monroe Houses, a NYCHA development stretching over 18 acres in the Soundview section of The Bronx.



**RAP4BRONX.ORG**

On Wednesday, April 1, 2020, Pix 11 News reported over 47,000 positive cases of coronavirus in New York City. Covid deaths reached 1,941 statewide. Stocks posted their worst first quarter since 2008. New York City playgrounds closed. And a newly launched food relief effort, the Relief Access Program - RAP4Bronx - delivered its first 100 pantry bags within the City's borough that was hardest hit by Covid and experiencing soaring unemployment rates.

By the end of 2020, RAP4Bronx had approached the one million mark of meals delivered. When the program celebrated its first anniversary on April 1 of this

year, the total had climbed by over a third, exceeding 1.3 million meals, serving an average of 10,000 households per week. Organizers didn't take a break to celebrate - all were steeped in preparations for the April 3 Easter egg hunt for the children at Monroe Houses, a NYCHA development stretching over 18 acres in the borough's Soundview section.

RAP4Bronx was originally organized and run by a task force of managers, laborers, and volunteers from **Andromeda Advantage** to help construction laborers laid off due to the pandemic. The population soon broadened to include frontline

and essential workers and all of the Bronx's most vulnerable citizens.

"We were uniquely poised with a fleet of vehicles and a labor force highly skilled at logistics," said **Shana McCormick**, then with **Spring Scaffolding's** accounting team, now the RAP4Bronx program director. She credits **Andromeda's Eva Hatzaki**, director of marketing; **Jack Terranova**, director of purchasing & logistics; **Cesar Rodriguez**, fleet manager; **Maurice Davidson**, facilities manager; and **Randall Meckel**, executive vice president, for their early and ongoing support.

Powered by **The Skyline**

**Charitable Foundation**, a 501(c)(3) nonprofit, RAP4Bronx acquired an influx of capital from nearby **York Studios**. A vacant retail space in Bruckner Commons donated by **Urban Edge**, the mall's property manager, and facilitated by **Community Board 9**, became the de facto warehouse with an adjacent loading dock to receive and transport trailer loads of food. Bags and boxes, all in bulk, continue to be distributed to community-based organizations through NYCHA, senior and veteran's centers, shelters, food pantries, Community Fridges and places of worship. Produce comes from **City Harvest** and staples from the **Food Bank of New York**. Volunteers from **New York Cares** lend helping hands.

Since last June, **ReThink Food** —a non-profit with a mission to create a more sustainable and equitable food system— has been a strong partner in the prepared meal portion of the operation.

"Food insecurity is a pre-existing condition. Covid only exacerbated it," said McCormick. The program has grown from an emergency food site to one able to provide culturally relevant and healthy prepared meals, a boon for those in shelters lacking fully functioning kitchens and workers returning from long hours at a job.

Consistency is key. "We're not leaving. We're here to uplift the community to advocate for themselves, to assist in ensuring that there's an equitable and just food system in place," said McCormick.

What's next? Urban farming is a goal that will further engage the community on multiple levels. While the City and the nation begin the long process of recovery, McCormick stressed that, "The need is still great." Whatever happens, she vowed, "We're here for the long haul."

Donations can be made through [rap4bronx.org/support-us](https://rap4bronx.org/support-us)

# HARLEM GROWN

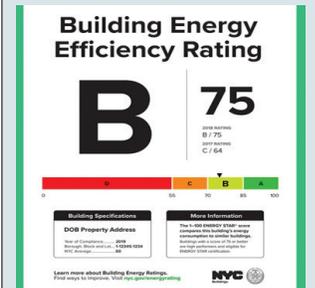


On Friday June 4th 2021, [Harlem Grown](#) —a non-profit organization whose mission is to inspire youth to lead healthy and ambitious lives through mentorship and hands-on education in urban farming, sustainability, and nutrition—held a ribbon-cutting of their thirteenth site. This new garden on the property of the **Thurgood Marshall Academy Lower School** at 282 West 151st Street was named after **Karen Washington**, a former social

worker who has dedicated her life in teaching urban farming and the importance of healthy eating habits to young children and their parents in the community. In her speech Mrs. Washington thanked those who came before her, those who fought for food justice, social justice, environmental justice and asked the students who were present at the ceremony to feel proud and remember that the food we eat, the tools and methods we use, were started by their ancestors, who brought their knowledge of agriculture to

this country. **Tony Hillery**, CEO, Harlem Grown, thanked all who participated in the conversion of this abandoned lot to a productive garden and read from his new book “**Harlem Grown – How One Big Idea Transformed A Neighborhood**” which features real characters from this project, illustrated by **Jessie Hartland**. **Skyline Restoration** is a proud partner of Harlem Grown and supported in building the structure for this new school garden.

## PENALTIES FOR NOT POSTING THE BUILDING ENERGY EFFICIENCY RATING LABEL



As of April 29, 2021, the Department of Buildings can issue violations to owners of buildings over 25,000 square feet – or multiple buildings on a lot that total 100,000 square feet or more – that appear on the [NYC Benchmarking Covered Buildings List](#) and failed to post an Energy Efficiency Rating Label as required by [Local Law 33 of 2018](#).

Owners can access and print the label through a new Building Energy Efficiency Rating tab in the DOB NOW Public Portal at [www.nyc.gov/dobnow](http://www.nyc.gov/dobnow).

Per the rule, an owner who fails to post the label will be subject to a civil penalty of \$1250. Covered buildings were required to post the label starting back in October 2020.

Owners who receive a violation for failure to post the Energy Efficiency Label can view and pay the civil penalties, or challenge the violation, through a new portal in [DOB NOW: Safety](#). For assistance with benchmarking tasks, email to [Help@NYCsustainability.org](mailto:Help@NYCsustainability.org) or call (212) 566-5584.



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**INDEPENDENCE DAY**

FRIDAY, AUGUST 27



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**SKYLINES**

A quarterly publication of Skyline Restoration Inc. 49-28 31st Place LIC, NY 11101 [SkylineRestoration.com](http://SkylineRestoration.com)