To the Members of the Board

Re: New York Workers Compensation
Construction Employment Payroll Limitation Program

The New York Construction Employment Payroll Limitation Program (NYCEPLP) was introduced effective October 1, 1999. At the onset of the Program, employments engaged in the construction of a development of one or two-family detached dwellings were considered commercial which resulted in the employers constructing these dwellings being subject to the provisions of the NYCEPLP.

The actual construction, however, of one or two-family detached dwellings falls under classification Code 5645 “Carpentry–Detached One or Two-Family Dwellings,” which is not subject to the NYCEPLP. Therefore, by considering this type of project as commercial, an employer was subject to the provisions of the Payroll Limitation Law, whereas this type of construction is actually excluded under the Law. To ensure that the provisions of the Law are properly applied, please note the following:

If an insured is engaged in the construction of only one or two-family detached dwellings, whether or not the construction is at a site of one home or many homes, Code 5645 applies to the construction of these dwellings and the NYCEPLP does not apply. Most other employments involved in the construction of these dwellings such as electrical, masonry, plumbing and landscaping in and around the individual dwelling would also be considered residential and not subject to the provisions of the Law.

Work, however, on common areas of the development such as clearing the right-of-way, laying sewer mains and lines, paving streets and sidewalks, and installing telephone and power lines are considered commercial and subject to the provisions of the Program. If the same contractor also connects the sewer lines, power lines, paves the driveway, etc. on or to the individual dwellings, this work is still considered commercial.

However, if work such as, but not limited to, paving driveways, connecting sewer lines and installing telephone and power lines is done to an individual dwelling by a contractor other than the contractor performing these operations to the entire development, the work on the individual dwelling is considered residential and not subject to NYCEPLP.

We trust this bulletin helps to clarify the distinction between residential and commercial employments under the New York Construction Employment Payroll Limitation Program.

Very truly yours

Monte Almer
President