



# ON THE LEVEL

Monthly Newsletter of the Temple Area Builders Association

October 2016

## Early Voting is underway - Get Out and VOTE!

Early voting for the Texas general election has begun. Voting began on Monday, Oct. 24, and runs through Friday, Nov. 4. Your last opportunity to vote will be Nov. 8 on General Election Day.

## Membership Drive Winners

Thank you to all of our members who participated in the membership drive. Congratulations to Jason Carothers for recruiting the most new members and for winning a gift card in our prize drawing. Congratulations to Ryan Waldron for winning the drawing for the Yeti Hopper. There will be another drawing at the end of November so keep recruiting those members and you may be our next winner. Remember — there is strength in numbers!

## Upcoming Event Calendar

- December 8 TABA Christmas Party & Officer Election @ Schoepf's BBQ
- February 24 TABA Home & Garden Show Kickoff Party @ Bell County Expo Center

*"There is strength in numbers. Please help us grow as an Association by encouraging your business associates to join TABA and support our industry. TABA's efforts help keep housing affordable in our community and benefit us all!"*

*- Patrick Johnson,  
2016 TABA President*



12 N. 5th Temple, TX 76501 | [info@tahb.org](mailto:info@tahb.org) | 254-773-0445

## In This Issue

- Upcoming Events
- Industry News
- Member Renewals
- New Members
- Member Benefits
- Membership Recruitment Contest



Early voting began October 24 and ends on Friday, November 4. For early voting locations and times - check [here](#) and scroll to the bottom of the page. November 8 is Election Day – check [here](#) for Election Day voting locations

The following is a list of Texas General Election candidates on local ballots that are supported by TABA Home-PAC, the registered, non-partisan, political action committee of the Temple Area Builders Association and/or the Texas Association of Builders HOME PAC, the registered, non-partisan, political action committee of the Texas Association of Builders, in the 2016 Texas General Election. All decisions to support a legislative candidate are made by the respective Board of Trustees.

Texas Supreme Court Justice  
Place 3  
Debra Lehrmann (R)

Texas Supreme Court Justice  
Place 5  
Paul Green (R)

Texas Supreme Court Justice  
Place 9  
Eva Guzman (R)

Texas Railroad Commissioner  
Wayne Christian (R)

State Senator, District 24  
Dawn Buckingham (R)

State Representative, District 54  
Scott Cosper (R)

State Representative, District 55  
Hugh Shine (R)

**\* Please continue to support our Bell County Elected Officials & Candidates in their uncontested races! \***

A full listing of Texas Association of Builders HOME PAC supported candidates throughout Texas is available [here](#)

TABA Home-PAC is the Political Action Committee of the Temple Area Builders Association. TABA Home-PAC promotes and financially supports candidates, issues, and causes that are in the best interest of the community TABA serves. TABA Home-PAC does not support a particular political party - it supports the best candidate for our views and goals.

## Governor Abbott Proclaims October 2016 As “Careers In Construction Month”

At the request of the Texas Association of Builders, Gov. Greg Abbott has proclaimed October 2016 as "Careers in Construction Month."

The Governor stated, "Texas needs men and women dedicating their talents to the construction industry, and as a state, we must encourage students and Texans of all ages to consider construction as a worthy career option ... I encourage all Texans to learn more about our construction industry and recognize the critical role it plays in the development of Texas and the nation."

For more information on the Texas Association of Builders efforts to support and develop the future of the Texas construction industry, please visit <http://www.texasbuildersfoundation.org/>



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**2016 TABA Home-PAC Sporting Clay Shootout Teams**

Bell Contractors - Keene Roofing - Stylecraft Builders - MLAW Engineers - Kiella Homebuilders - Tri-Supply - Chick Landscaping - Suncoast Post-Tension - KPA Engineers - Turley & Associates - Lone Star Ag Credit - Texas Association of Builders - Brockway, Gersbach, Franklin & Niemeier - First Community Title - Bell Air Conditioning - Lengefeld Lumber - Omega Builders - Capital Farm Credit - Sojourn Real Estate - Capitol City Insurance - CRW

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**IBS Registration Now Open**

2017 International Builder Show will take place in Orlando Jan. 10-12, 2017

The industry's premier event is the best opportunity for members to see the latest building products, gain expertise and meet key business partners. Visit [www.buildershow.com](http://www.buildershow.com) for more info on the show and savings on registration!

## NAHB & TAB Name Senator Cornyn A "Defender of Housing"

Senator John Cornyn (R-Texas) was honored by the National Association of Home Builders (NAHB) and the Texas Association of Builders with the "Defender of Housing Award," acknowledging him as a forward-thinking federal legislator who recognizes housing's significant role within the U.S. economy.

"Sen. Cornyn understands the key national issues facing home builders and remodelers here in Texas," said Edward Martin, President and CEO, Tilson Home Corporation, a member of the Texas Association of Builders and the Greater Houston Builders Association. "The unfortunate effect of too much legislation and regulation is that it drives up the cost of housing, making it more difficult for families to afford a home."

"Home building is by its very nature a series of productive partnerships: between the home builder and his or her client, trade contractor, banker or architect," said NAHB Chairman Ed Brady, a home builder in Bloomington, Ill. "The 'Defender of Housing Award' honors another very important partnership: our ongoing work with the lawmakers who, in many ways, create the blueprint for our businesses with their votes on legislation that define how our industry operates."

NAHB created the Defender of Housing Award on behalf of the more than 700 state and local HBAs across the country that make up the NAHB federation. These HBAs chose their nominees, and a panel of NAHB elected leaders chose the finalists.

"Each recipient represents a strong commitment to affordable housing, consumer choice and most importantly, the significant contribution that home building makes to the economy," Martin said. "Homeownership is the engine that drives this nation, and the Defender of Housing Award goes to those who enable more homes to be built."

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**Vice President** – Mike Pilkington  
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**Director** – Joel Berryman  
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**Director** – Ryan Waldron  
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**Director** – Robbie Johnson

## Do Business with a member!

Our current members are our most valuable recruitment tools! Are you encouraging the people that you do business with to join TABA?

## There is strength in numbers!

If our industry doesn't have a strong voice, your business will be impacted one way or another. This could mean less infrastructure development or it could mean more regulation and higher fees.

Either way, your ability to grow your business could be limited if you don't have an advocate in the halls of government.

TABA not only provides networking and marketing opportunities that help you promote your business, we also navigate the political waters to help provide a pro-business environment.

We encourage you to engage your business associates, and have them join TABA so we can continue to move our industry forward!

Contact Kacie at [kacie@tahb.org](mailto:kacie@tahb.org) or 254.773.0445 for more information on how to refer your business associates, or to pass on leads regarding prospective members!



***The following companies have shown their commitment to the industry by renewing their memberships. Thank you!***

- Atmos Energy - Brush Solutions - Construction Service & Materials - Dillard's Custom Cabinets - Heart of Texas Landscape & Irrigation - Johnson Brothers Ford - Matous Construction - Orlowski & Hansen LP - Randy Taylor Custom Builders - Ratliff Ready Mix - Sherwin Williams - Sparta Crane & Construction - Texas Bright Ideas - Topstone - Universal Services -

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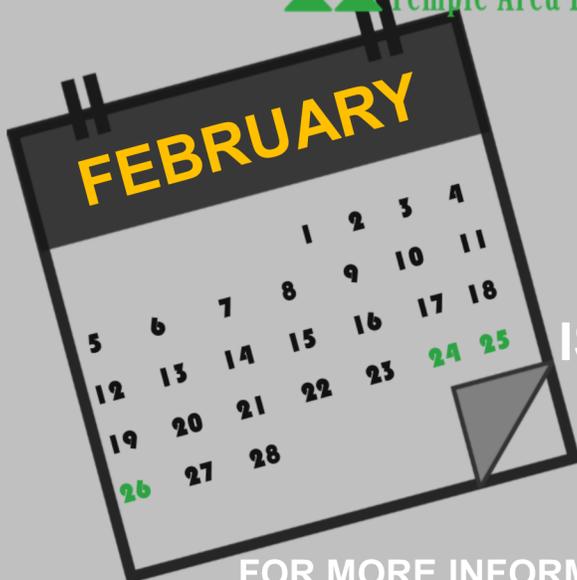
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# Home & Garden

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## Supreme Court to Hear Property Rights Case

The U.S. Supreme Court docket includes a Fifth Amendment “takings” clause case that will undoubtedly affect home builders: [Murr v. Wisconsin](#). This case deals with the “relevant parcel” rule under the takings clause and can be explained in terms of fractions.

If you own 100 acres and the government takes 40 acres of your land, the fraction is 40/100. The “relevant parcel” is the denominator (100), the total that property courts should use to decide how much of that land has been taken by the government. In the example, it is easy to determine the relevant parcel, but the Murr case shows why this issue is not as simple as it looks.

In the late 1950s, William Murr bought a small parcel of lakefront property, Lot F, on which he built a family cabin. A few years later, William separately purchased Lot E, the unimproved lot directly adjacent to Lot F. In time, the titles for both lots were passed on to Murr’s children.

In 2004, the Murr children began to look into upgrading the family cabin, but they required the proceeds from the sale of the unimproved Lot E to finance these upgrades. Unfortunately, local regulations prohibited the children from selling Lot E by itself because of minimum lot size restrictions. Further, the children could not develop Lot E because of a local ordinance prohibiting development of adjacent lots if owned by the same person.

In short, the Murr children were left with no options for Lot E except to keep it in its unimproved condition. The Murr children brought a claim for the 100% taking of Lot E only. They did not include any claims for Lot F. However, the government argued that the relevant parcel for purposes of takings analysis was Lot E combined with Lot F; thus, the taking would be far less than 100% since Lot F is not affected by the government regulation.

The Wisconsin appellate court agreed with the government, and ruled that because the two lots are geographically contiguous and under common ownership, takings analysis requires combining the two parcels when determining the loss of economic value. This is despite the fact that Lot E and Lot F were created as legally separate lots, taxed separately, purchased at separate times, and passed on to the children at separate times.

As a legal side note, there is a huge difference when a landowner claims a complete taking (100%) of property as compared to a partial taking under 100%. A landowner subject to a complete taking is automatically entitled to just compensation (referred to as a Lucas taking). A landowner subject to a partial taking is subject to an additional hurdle: the Penn Central legal test. Penn Central takings cases are very difficult for property owners to win.

It is easy to see how this decision could affect the home building industry. For example, if a home builder has completed the first phase of a project and the government prohibits the development of Phase II, it would be very difficult for the builder to establish an unconstitutional taking if the relevant parcel includes the entire site.

NAHB submitted an amicus brief to ensure that the interests of home builders are heard by the Supreme Court. The court has not scheduled a date for oral argument, but it is likely for sometime in 2017.

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Members are the foundation of our association. Members provide the support, the means, and the passion to ensure that we can be successful in achieving our collective goals in promoting home ownership and ensuring the long-term stewardship of the building industry in Central Texas.

Our members strive to make the American Dream a reality by providing quality, affordable homes with superior craftsmanship.

## Talks Continue on Energy Code Legislation

NAHB continues to hammer home the important message of cost-effectiveness as House Energy and Commerce Committee and Senate Energy and Natural Resources Committee conferees meet to finalize legislation intended to make buildings more energy efficient.

Home builders are pushing the House version of the bill, which is aimed at ensuring affordability along with efficiency: The House bill would require that any building code or code change proposal supported by the Department of Energy (DOE) have a clear financial payback of 10 years or less.

“We need to protect home owners by helping to ensure they will see a return on their investment,” said NAHB Chair Ed Brady. “It’s bad policy – and bad news for home owners – when building codes force builders to install costly materials and equipment that save energy, but that won’t provide a financial payback for 20, 50 or even 100 years. Energy efficiency needs to be cost effective, or it really isn’t efficiency.”

A group of leading building product manufacturers, the U.S. Chamber of Commerce and the National Association of Manufacturers sent a [joint letter](#) to Congressional leaders urging them to act quickly on this legislation intended to make buildings more energy efficient and oppose the NAHB-supported provisions on energy codes.

Importantly, the manufacturers back a provision in the Senate bill, which grants DOE more authority in writing energy codes but ignores the rising costs to comply with these codes.

“We urge conferees to retain the current Senate language which supports strong, updated model building energy codes,” the manufacturers’ letter said.

NAHB, the American Wood Council, National Association of Realtors, American Gas Association and other national groups [asked Congress](#) in September to keep affordability as addressed in the House bill as it considers legislation.

## House Report Illustrates Need to Rescind WOTUS Rule

A [new report](#) released today by the House Oversight and Government Reform Committee on the waters of the U.S. rulemaking process reaffirms what NAHB has been saying for years: The rule is motivated by political considerations, it is not based on sound science and it bypassed the necessary public outreach required under the Administrative Procedures Act.

“The report is in line with a [Senate study](#) released last month and provides further evidence why Congress must take swift action to overturn the final rule put forth by the EPA and U.S. Army Corps of Engineers that redefines ‘waters of the U.S.’ under the Clean Water Act,” NAHB Chairman Ed Brady said in [an official statement](#).

NAHB has long held that the new definitions finalized by the EPA add unnecessary confusion and cost to home building and other activities in property regulated by EPA and the U.S. Army Corps of Engineers without a corresponding environmental benefit.

The U.S. Court of Appeals for the Sixth Circuit [enacted a temporary nationwide stay](#) last year because it is deeply flawed and provides no clarity or certainty regarding Clean Water Act jurisdiction.

NAHB continues to lead the charge to call on Congress to put a stop to this needless federal overreach by quickly passing legislation to rescind this water rule.

## ***Study Looks at Characteristics of Subdivisions***

A [recent NAHB study](#) shows that the median size of a subdivision in the United States is 25 total acres, and the median number of housing units in a subdivision is 50. The results are based on a survey of development projects currently under way or recently completed, conducted by NAHB's Economics and Housing Policy Group in May 2016. NAHB conducted a similar survey once before, in 2014. Results were not drastically different, although the median number of housing units in a subdivision was somewhat higher in the earlier survey.

The 2016 survey collected information on whether a subdivision was inside or outside a metro area, and the type of housing built in it: single-family detached, attached (townhomes or apartment buildings) or a mix of the two. The median number of housing units in subdivisions inside metro areas is 50, compared to 46 for development outside of metro areas. The median in mixed housing developments is 314 housing units, compared to a median of 65 in attached-only, and 45 in single-family detached only subdivisions.

The survey also collected data on the acreage in the subdivisions, and how much of it was dedicated to housing. From this, it's possible to calculate a measure of net residential density. The median net residential density for all subdivisions is 4.0 units per acre. For subdivisions located inside metro areas, the median net residential density is 4.0 units per acre, slightly higher than the 3.8 units per acre for non-metro developments. When looking at the net residential density of subdivisions by type of housing, attached-only subdivisions have the largest median net residential density of 18.8 units per acre, compared to 5.8 units per acre in mixed housing developments, and 3.2 units per acre in single-family detached only.

For more detail, including a profile for each of the five major types of subdivisions, a complete set of tables with more information for each type of subdivision and breakdowns by region and housing units in the development, and a copy of the questionnaire, please consult the [full study](#).

## ***Court Wants Changes for CFPB***

The U.S. Court of Appeals for the District of Columbia on Oct. 11 decided [an important case](#) reining in the authority of the [Consumer Financial Protection Bureau](#) (CFPB). In [PHH v. CFPB](#), the court held that the CFPB's structure is unconstitutional, because it is led by a single director who is not fully accountable to the President of the United States.

To remedy this situation, the court avoided dismantling the agency as a whole by holding instead that the president must be able to remove the CFPB director at any time. After resolving this constitutional issue, the court ruled on the merits of the case, and, importantly for NAHB members, preserved a longstanding statutory interpretation that impacts marketing service agreements and builder affiliate relationships.

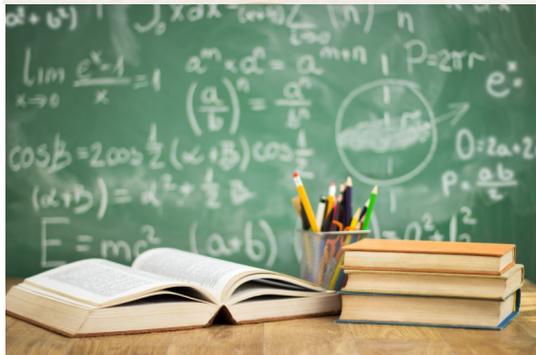
Marketing service agreements frequently consist of an agreement between a home builder or a real estate brokerage and a mortgage company where the builder or real estate broker performs marketing services in exchange for a fee from the lender. The court preserved the status quo and held that, so long as services are compensated at relevant market rates, these types of agreements and relationships will not be considered unlawful kickbacks under the Real Estate Settlement Procedures Act (RESPA).

CFPB has already expressed its disappointment with the court's opinion and has said it is considering seeking review of the court's decision. NAHB participated as an amicus in this important case to ensure that the court understood the wide-ranging implications of this case on business arrangements that are important to the residential construction industry.



Changes in state and local laws and regulations could be detrimental to your business. Your active support and contribution to TABA Home-PAC is an investment in the future of our industry and our community. Join your friends and colleagues in assuring our area remains an attractive spot for continued development by contributing to TABA Home-PAC today!

**CAN YOU AFFORD  
NOT  
TO PARTICIPATE** ?



YES, I want to support TABA Home-PAC and its efforts to strengthen our collective voice by helping to support local initiatives and elect pro-housing candidates who give our industry a voice at the local and state levels of government.

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# Programs Exclusive to Members of the Texas Association of Builders

Complete information is at [TexasBuilders.org/membership/benefits](http://TexasBuilders.org/membership/benefits)

<p><b>TAB Model Construction Safety Program and Jobsite Safety Standards Package©</b></p> <p>Includes a user guide, Model Safety Plan and training webinar for only \$249.99 plus tax. Purchase online at <a href="http://TexasBuilders.org">TexasBuilders.org</a></p>	<p><i>TAB members are entitled to receive the benefits of programs and services that are not available to the general public.</i></p>	<p><b>National Purchasing Partners</b></p> <p>To learn if you are eligible for discounts from some of the nation’s most respected retailers, register today at <a href="http://MyNPP.com">MyNPP.com</a>. There is no obligation to purchase and it’s free to register.</p>
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## 2015-2017

# UPDATED TAB CONTRACTS NOW AVAILABLE . . .

## TEXAS RESIDENTIAL CONSTRUCTION CONTRACTS PACKAGE

The Texas Association of Builders updated its 2015-17 Texas Residential Construction Contracts Package in July to include the following:

- New Architect/Design Professional Addendum to protect the builder when the owner hires an architect or design professional.
- New landscaping warranty exclusions in all construction/remodeling contracts, and content damage provisions in all remodeling contracts.
- The addition of a new “plan design release fee” to the existing Design-Build Agreement.

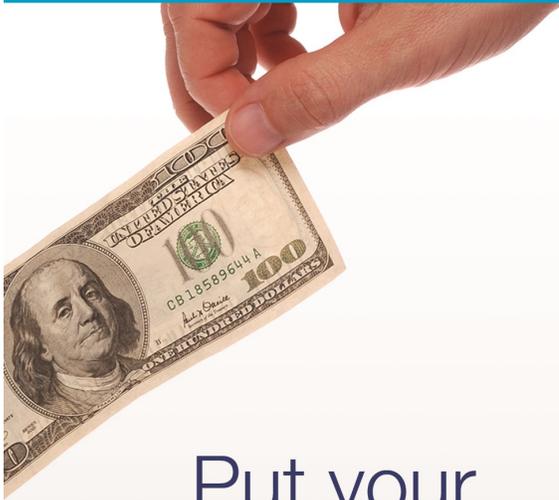
For builder and remodeler members of the Texas Association of Builders, TAB’s contracts package subscription is your blueprint for typical construction and remodeling transactions in the State of Texas.

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The package of contracts and related addenda is a fantastic value and can save you thousands of dollars in legal fees. To purchase your contracts for **\$399.99** +tax, visit [TexasBuilders.org/membership/contracts-package.html](http://TexasBuilders.org/membership/contracts-package.html).



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## TABA Membership Spike Club Roster - Top 10

Jim Howe -- Omega -- 558 Credits

Christopher Butler -- Jubilee Homes -- 542 Credits

John Kiella -- Kiella Homebuilders -- 484Credits

Jason Carothers -- Carothers Executive Homes -- 352 Credits

Linda Strickel -- Bonded Builders Warranty Group -- 275 Credits

Charles Amos -- Amos Electrical Supply -- 269 Credits

Curtis Lockey -- Lochridge-Priest -- 213 Credits

Dean Winkler -- CRW Construction -- 165 Credits

John Paysse -- 124 Credits

Robbie Johnson -- Stillwater Custom Homes -- 124 Credits

### What is the Spike Club?

The NAHB Spike Club is composed of all of the individual members and employees of members in local associations who have attained Spike status.

It is a vehicle to recognize these members for their outstanding achievements in member recruitment and retention in their local home builders association.

### How do I earn Spike Credits?

Individuals earn Spike Credits by sponsoring new members, and by those new members retaining their membership.

Spike credits have the following values: 1.0 credit for new Builder or Associate members and 0.5 credit for new council members, Affiliate memberships, and Builder and Associate renewal memberships.

### What is one example of a Spike Club perk?

Other than bragging rights... Spikes can attend the NAHB Spike Party & Directors' Reception held each year during the International Builders' Show. The Spike Party & Director's Reception recognizes and honors Spikes across the country for their continued commitment to membership development.

To qualify to attend the Spike Party & Director's Reception, each Spike must have a minimum of 6 credits and must earn at least one new member credit between November 1 2015 - October 31 2016.

## Membership News & Announcements

Do you have an announcement about your member company that you would like to share with the broader TABA membership?

Contact us at [kacie@tahb.org](mailto:kacie@tahb.org) or 254-773-0445 to share

## Membership Recruitment Contest

For every 2 members (Builders or Associates) you recruit between now and November, your name goes into TWO separate drawings.

One drawing will be held during the TAB Membership Committee meeting in November 2016.

The second drawing will be held at the TABA office at the end of November.

Winners will be notified by phone and you don't have to be present to win!

## Contact Us

Temple Area Builders Association  
12 N. 5th Street  
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(254) 773-0445

[info@tahb.org](mailto:info@tahb.org)

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