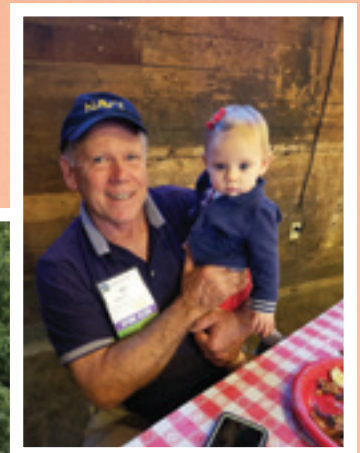


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## GRILLIN N CHILLIN 2022

**THE SAIBER  
CONSTRUCTION  
LAW COLUMN**  
BY ROBERT B. NUSSBAUM, ESQ.  
SEE PAGE 8

**INFLATION  
REDUCTION ACT**  
BY JOSEPH ANDOLINO  
SEE PAGE 13

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# Metropolitan Builders & Contractors Association of NJ

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## OnSite / October 2022

Editor: Michele Leppard  
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**Mission Statement:** Metro is a professional organization that shall serve to protect and advance the rights and interests of builders, remodelers and associates in all matters affecting the building and remodeling industries. Metro shall support the business interests of all its member firms, support safe and affordable shelter, and foster the American dream of home ownership.

**Vision Statement:** Metro is the leading trade association for the construction industry. Metro inspires active membership through professional development and advocacy. We embrace free markets to promote cost effective housing in NJ.

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# President's Message

## October 2022

Greetings Fellow Metro Members,

I've always been fascinated by politics. I grew up in a diverse household, with a conservative, Catholic, Italian father who ruled by bullying. I also have a libertarian, Jewish, Hungarian mother who parents with love and compassion. My Father thought I was worthless, my mother still is my biggest fan. Growing up I believed them both. I like to say that I am a man who is the product of negative reinforcement, refined by positive reinforcement. Circling back to politics, I think my fascination comes from the fact that I've always thought disagreement was normal. As a kid, I just couldn't understand how some people could revere a world leader and at the same time others would be burning effigies of them. Not only couldn't I understand it, but I also couldn't fathom how leaders could emotionally handle it.

Early in the pandemic, during one of the first Metro Crisis Education Zoom meetings, I remember saying to the audience *"This is going to sound hokey but the decisions we make need to be not only good for yourself, but good for your business, your community, New Jersey, and our country. If you can make decisions that are good all the way up, they most certainly will be good for you"*. Fortunately, on that call was a powerful NJ lobbyist who called me afterwards to assure me that my statement wasn't at all hokey and encouraged me to keep up the work. Fast forward to last week where I found myself in a room with two Florida State Senators, as FHBA PAC Chair-elect, having a robust conversation about how to support homebuilding on both sides of the aisle. As the conversation went on, a chord was struck, and I found myself repeating the lines I quoted above although without any hesitation about hokeyness.

When asked why I was so passionate about my role, my answer was simple. I grew up watching Ronald Reagan and Tip O'Neill debating each other during the day and having a drink together at night. In college I remember watching McCain and Kennedy debate each other on the Senate chamber floor, and then share lunch at a steakhouse. I said to the Senators, "It is up to us to demonstrate that through collaboration and cooperation, we can work to stimulate home building and business." Holy smokes did that sound ridiculous in my head! Nonetheless I said it with conviction and with pure intention in every word. The conversation continued and I certainly found my voice.

Just as the meeting adjourned, my cell phone rang, and it was

*PRESIDENT'S MESSAGE CONTINUED ON PAGE 11*



**Frank R. Coppola III**  
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## *Growing Our Strength Through Member Recruitment, Retention, and Involvement*

Recruiting new members to the Metropolitan Builders Association is recognized and rewarded through the Spike Club. Those who participate are called Spikes, and they are among the most valued members of the association. Before becoming a Spike, you are a Spike candidate. That means you have earned between one and five credits. Once you earn your sixth credit, you become an official NAHB Spike! Spike credits are earned by recruiting and retaining NAHB and Council members.

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## MICHELE'S EO PERSPECTIVE



Do you ever get asked 'what is a homebuilders association?' A homebuilder's association is a bit of everything to those in the industry. I was reading an old issue of OnSite and this question arose and it struck a chord with me. What is a homebuilder's association (HBA)? It is the voice

of builders locally, in Trenton and Washington DC. Through the efforts of NJBA and NAHB, we are one of the largest advocacy groups for homebuilders nationwide. It is an association that brings all of those in the homebuilding industry together to help support the mission of promoting and protecting all segments of the residential building industry.

Metro holds one to three events every month allowing our members the opportunity to build relationships and help each other grow, personally and professionally. Through the association our members are eligible for many benefits, discounts and rebate programs through both NJBA and NAHB, including health insurance, 401K, NAHB Savings Program and HBA rebates. Metro's members include builders, general contractors, attorneys, bankers, realtors, architects, plumbers, electricians, masons, manufacturers, engineers and

so many other businesses. Why do they all join an HBA? Because they are all integral components of the homebuilding industry.

Many of our members have been in the association for decades because not only do they see a difference in their business, but they feel the impact of the accomplishments made by NJBA and NAHB. Now is the time to refer your colleagues to Metro because every member leads to a louder voice in support of the homebuilding industry, which we are all a part of. Invite them to our next event and let them see for themselves what our association is all about. We are Pro-Builder.

Have you heard about our national councils? Metro runs the Professional Women in Building, the Remodelers and the Sales & Marketing Councils. All of these councils are available to our members and include educational content, support groups and national events. For more information about these councils, please visit our Committees /Councils page on our website for more information or email me at [mleppard@metrobc.org](mailto:mleppard@metrobc.org)

*"You can dream, create, design, and build the most wonderful place in the world. But it requires people to make the dream a reality."*  
— Walt Disney

**Michele Leppard, EO**  
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# THE SAIBER CONSTRUCTION LAW COLUMN

By Robert B. Nussbaum, Esq.

When it comes to contracts, New Jersey courts, like courts in other jurisdictions, enforce them according to their plain and ordinary meaning. So when a contract’s terms are clear, the court will enforce it as written. The Supreme Court of Washington recently applied these principles in *Conway Constr. Co. v. City of Puyallup* when it looked at, among other issues, whether the City terminated a construction contract for cause or for convenience – two provisions which often provide a basis for the early termination of a construction agreement.

In the *Conway* case, the parties’ contract permitted the City to terminate the agreement early either for cause (i.e., because of a default by the contractor, such as for defective performance) or for convenience (i.e., terminating the agreement at will, provided it was not done in bad faith). A termination for convenience would entitle the contractor to greater damages than if it was terminated for cause because, under the parties’ agreement, a contractor terminated for convenience was entitled to be paid for all actual work it performed until the date of termination. In *Conway*, the City terminated the contract, claiming it was because of the contractor’s alleged breach of the agreement. However, after a non-jury trial, the trial judge ruled that the termination was not for cause, which converted the City’s termination to one for convenience. The Supreme Court of Washington ultimately affirmed that decision.

In reaching this conclusion, the Court looked at the language of the contract. According to the Court, the contract allowed termination “based on defective work only if the contractor ‘neglects or refuses to correct rejected Work.’” The agreement further provided that upon 15 days’ written notice, the contractor had to remedy the work to the satisfaction of the City. At trial, the contractor established that it took steps to remedy the alleged defaults and reached out to the City to determine if the corrective efforts were sufficient. The City, however, refused to meet with the contractor. The trial judge therefore found that the contractor was not neglecting or refusing to correct the defects and that City’s failure and refusal to meet with the contractor to discuss the remedial actions was “unreasonable or made in bad faith,” which had the effect of making the termination one for convenience rather than for cause. As the Court stated, “our

decision today is bound by the terms of the contract.”

\* \* \* \* \*

The *Conway* case was decided under Washington’s state law, so it is not binding on New Jersey courts. However, the basic contract principle illustrated by *Conway* – that a court’s decision is bound by the terms of the parties’ contract – is one that would apply in New Jersey as well. Contractors should therefore carefully read their agreements, especially when the agreement is drafted by the other party to the contract, and understand all of its terms before signing. Then, if a dispute arises, the contractor can use the plain language of the contract to argue in support of its position in the dispute.

\* \* \* \* \*

Each issue’s Legal Construction Column will discuss a recent decision by New Jersey courts or, like here, courts from other states which may be of interest to people in the construction industry.

The information in each article is not intended to be legal advice and may not be used as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to assure this information is up-to-date. The article is not intended to be a full and exhaustive explanation of the law in any area, nor should it be used to replace the advice of your own legal counsel.

For any question relating to this article, please contact Robert B. Nussbaum, Esq. at Saiber LLC at [rnussbaum@saiber.com](mailto:rnussbaum@saiber.com).

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# WHAT IS NEEDED TO ATTRACT MORE YOUNG WOMEN INTO THE CONSTRUCTION FIELD TO ADDRESS WORKFORCE SHORTAGES IN THIS INDUSTRY



By Linda Garvey, Coppola Brothers LLC & Metro PWB Chair

There are plenty of jobs (good-paying jobs) but not enough trained workers in the construction/remodeling industry.

To meet the increasing demand for labor, the construction industry needs

to immediately attract nearly 650,000 additional workers over and above its normal pace of hiring this year.

Women account for 51.8% of the workforce, to help solve this crisis, the construction field must attract and then retain more women from this population.

According to Fox Business, trade school enrollment is surging in key areas and by nearly 17% for construction schools. One reason more students are starting to rely on trade school education is the lower cost of tuition (on average \$30,000 for only one-two year versus the same price tag for one semester at a four-year college). Employment after graduation is usually guaranteed in the trades. However, the vast majority of these students are still men, and the supply is still not enough to keep up with demand.

There are several key things the industry can do to better help solve the skilled worker shortages and attract women into construction roles:

- **Start early with role modeling women in construction.** Young girls still find it hard to imagine a role in construction. There are growing numbers of apprenticeship and mentoring programs, as well as professional organizations, such as the NAHB's Professional Women in Building councils and others, aimed to support women in these construction roles earlier in life with previously "unconventional" roles for women.
- **Recruit Women into Trade Schools.** These types of schools need to get better at recruiting women. Not only do they need to help envision life for themselves in construction, they also need to market the type of work that will make up the future of skilled jobs. These young women need to see the financial benefit of being in construction. Women in construction are paid the closest amount to their male counterparts than any other industry.
- **Leverage Technology to improve retention rates.** Once women are in trades schools, retaining them is another thing. Many vocational schools are lagging behind technologically with their systems.

This makes it hard to deliver high-quality learning experiences that the student expects.

- **Help place women into construction roles.** Women need to be placed in construction jobs that are meaningful, proactive and involved with them long-term. They need support and continuing education to help foster their development.

It's time to bring "*Rosie the Riveter*" into the new century. Today's "*Rosies*" deserve and require more role models, targeted recruitment efforts, modern technology and professional education to help support their network, pay and the new skill sets required to deliver on the future work.

---

## PRESIDENT'S MESSAGE CONTINUED FROM PAGE 3

regarding someone complaining about how I had missed a Zoom meeting happening at the same time. There was a scheduling error, and I offered a simple solution, which worked out better in the long run for the key players on the Zoom. The complainer wasn't looking for a solution but was looking for a "Gotcha!". Here I was, volunteering my time to promote home building, yet facing criticism over a misunderstanding and an assumption that I was shirking my responsibilities.

It was yet another great life lesson, courtesy of my journey up the HBA ladder. Modern society is enthralled with the "Gotcha!", "Clickbait" culture. Folks have forgotten how to disagree. Rather than face an issue they will choose to post a complaint on social media, or as I like to say "Whine in the locker room" instead of bringing the issue AND the solution to the conversation. Of course, people are going to disagree. Even if someone was able to walk on water, there would be someone shouting "See, they can't swim!". The takeaway is to have your own conviction to do the right thing, and make sure your decisions are not only good for yourself, but good for everyone else. If you can do that, with pure intentions, you might just find yourself as real part of the solution to some pretty big problems.



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Ken Fox just completed his 35th year in business, Fox Architectural Design, PC. Our key Project Architect, Fred Wawra, has shared in 34 of those years. Ken earned his Bachelor of Architecture Degree from the NJ Institute of Technology, School of Architecture in 1981. He served as an apprentice with a number of firms in Morris and Essex County while learning that architects and builders can work together to excite and satisfy their clients. Hence, contractors have been the firm's best salesmen throughout its history.

The firm is based in the Lake Hopatcong area, but serves much of northern New Jersey. Ken is licensed in six states, including New Jersey, New York, Pennsylvania, Vermont, Florida, and Maine. He is presently working on a custom home in northern Vermont and a timber-frame custom home that has begun construction in northern Maine.

Thirty-four years ago, Ken hired his high school drafting teacher, Jimmy McGraw, to be his second employee. Mr. McGraw brought computers to the Fox office, and technology has been at the core of our business since.

Community service and charitable efforts have been at the core of the firm's philosophy. Learned from his mother, who was very active in the Rockaway Township community, Ken has volunteered for numerous organizations, commissions, and as a local educational consultant. Ken has always had a keen interest in the education of our youth and has been a member of Morris Hills Regional High School District Vocational Advisory Committee for nearly 40 years and served on the County College of Morris Design Department as an advisor in developing curriculum and criteria for students entering vocation and professional services in the construction industry. He has been on the Dean's Advisory Council at the NJ

School of Architecture and has mentored numerous high school and college students looking into the architectural profession and building industry.

Ken is a Certified Green Professional with the National Home Builders Association, enabling him to answer his clients' questions with regard to energy efficiency, product selection, indoor air quality, site configuration, recycling, and other general efficiency needs/requirements with regard to the building process. Ken is also a Professional Planner and regularly serves as an Expert in Architectural Testimony and Planning Testimony at various Board Hearings for clients.

In addition to the housing industry, especially lakefront housing, Ken's firm assists many clients in the commercial and public sector, including churches, restaurants, automotive establishments, and municipal projects. Fox Architectural Design has been awarded the Metropolitan Builders and Contractors Association's Awards of Excellence for multiple projects each year since 2010 in all of these genre.

Ken joined the Metropolitan Builders and Contractors Association, then known as the Community Builders and Remodelers Association, in 2010. Looking to expand his relationships with builders has always been the primary focus of this membership. Ken spends his time developing relationships with the members and now celebrates many years of opportunities to work with, and for, many members of this organization. Fox Architectural Design was awarded the METRO Partnership Award at this year's 2022 Awards of Excellence for the number of METRO members that services were performed together. We are proud of this accomplishment and look forward to many years of serving METRO and its members.

Ken is engaged to Kiersten Hammer, is a father of four; three boys (2 of which are twins) and one girl. He is a grandfather of seven boys and one girl, the newest born in mid-July of this year. Another grandson is expected in December. He has taken great pride in watching his children grow into responsible adults with careers and looks forward to many days with all of his grandchildren. Ken enjoys skiing, golf, camping, back-packing, kayaking, rock climbing; anything that involves activities in nature.

I have been blessed over these past 35 years to have worked on many great projects, but it is the awesome people who I have been able to work with, and for, that have made my life the success that it is. My advice to anyone who wants to become an architect, wants to work in the building industry, or just wants to be a success in life, is to listen, work hard, and serve others.

I look forward to working with you.

# INFLATION REDUCTION ACT

By Joseph Andolino, Tax Attorney, Smolin

The INFLATION REDUCTION ACT (“Act”) was signed into law on August 16, 2022 with several provisions of likely significance for Smolin Clients.

## TAX

\$80 billion was targeted for enhanced IRS funding including funds for criminal enforcement, digital asset compliance, business systems, modernization, and improved taxpayer services. There has been much press about this provision with concern expressed about the large increase in the number of agents and their focus. 87,000 new agents replacing 50,000 retirees over ten years.

While we remain cautious, there are some bright spots in this aspect of the Act. The upgrade in dated computer systems and funds spent to improve the IRS’ customer service is long overdue.

Hiring new IRS agents to replace retirees and providing them with enhanced training will be phased in over time. More and better trained agents will be well received.

We continue to emphasize detailed record keeping and deduction documentation for our clients which should answer many questions in an IRS examination.

The CBO estimates that the IRS funding increase will raise \$200 billion in additional revenue.

Other tax provisions include a 15% corporate minimum tax on large taxpayers, a 1% excise tax on public company stock buybacks, an increase in the R&D credit for small taxpayers (creditable against payroll taxes), and an extension of the loss disallowance rule for non-corporate taxpayers.

## ENERGY CREDITS

The clean electric vehicle tax credit of \$7,500 was extended and modified with income limitations beginning in 2023.

There is an extension and increase in the Energy Efficient Home Energy Credit for eligible home improvements made during the year up to \$2,000 per year with no lifetime cap for doors, windows, central air conditioners, electric panels, natural gas, propane or oil furnaces or hot water boilers, heat pumps and biomass stoves and boilers.

\* \* \* \* \*

There are many other provisions in the 273-page Act and we will highlight the most likely to be of significance to members.

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# 2022/2023 CALENDAR OF EVENTS

**THURSDAY, OCTOBER 6, 2022**  
6th Annual Metro Cup  
10:45 AM Registration Royce Brook Golf Club, Hillsborough

**THURSDAY, OCTOBER 20, 2022**  
Reno's Networking Event  
5:30 PM

**THURSDAY, NOVEMBER 17, 2022**  
General Membership Meeting & Election of Officers  
6:00 PM Bridgewater Manor

**THURSDAY, DECEMBER 15, 2022**  
Installation of Officers & Holiday Party  
6:00 PM Bridgewater Manor

**THURSDAY, JANUARY 19, 2023**  
General Membership Meeting  
6:00 PM – General Plumbing Supply

**TUESDAY, JANUARY 31 – FEBRUARY 2, 2023**  
NAHB – International Builders Show  
Las Vegas Convention Center

**WEDNESDAY, FEBRUARY 15, 2023**  
Economic Forecast with Dr. Dietz  
6:00 PM - The Hanover Manor

**THURSDAY, MARCH 16, 2023**  
Lobsterfest  
6:00 PM – Pub 199

**TUESDAY, MARCH 28 – 30, 2023**  
NJBA – Atlantic Builders Show  
Atlantic City

**APRIL**  
Home and/or Builder Show  
Date TBD due to Easter and Spring Break  
Location - TBD

**THURSDAY, MAY 18, 2023**  
General Membership Meeting  
6:00 PM – Location TBD

**WEDNESDAY, JUNE 14, 2023**  
Awards of Excellence  
6:00 PM - The Hanover Manor

**THURSDAY, JULY 13, 2023 (2<sup>ND</sup> THURSDAY)**  
General Membership Meeting  
6:00 PM Location – TBD

**THURSDAY, SEPTEMBER 14, 2023**  
GME - Grillin & Chillin  
5:00 PM – Location Raritan Inn

**WEDNESDAY, OCTOBER 4, 2023**  
Seventh Annual Metro Cup – Golf Outing  
10:45 am – Royce Brook Golf Course

**THURSDAY, NOVEMBER 16, 2023**  
Election of Officers  
6:00 PM Location TBD

**FRIDAY, DECEMBER 8, 2023**  
The Installation Dinner & Holiday Party  
6:00 PM – The Hanover Manor

*(All events/topics and dates are subject to change)*

## ADVERTISING IN ONSITE MAKES THE DIFFERENCE!

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All advertising must be camera ready and paid in advance.

<b>Full page for one year (10 issues)</b> .....	\$2,800.00	
<b>Half Page for one year</b> .....	\$1,750.00	
<b>Quarter Page for one year</b> .....	\$1,100.00	
<b>Business Card for one year</b> .....	\$650.00	
	(1 month)	(3 months)
Full Page (8 x 10 in.)	\$350.00	\$925.00
Half Page (7.5 x 5 in.)	\$250.00	\$575.00
Quarter Page (3.5 x 5 in.)	\$175.00	\$400.00
Business Card (3.5 x 2.5 in.)	\$100.00	\$250.00

### Color Covers - Monthly Submissions

Inside Front	\$600 per month
Inside Back	\$600 per month
Outside Back	\$600 per month

### Copy Deadline

1st of month preceeding publication month  
*(Electronic pdf or jpg document preferred, min. 300 dpi resolution)*

**Send To:** [MemberServices@metrobc.org](mailto:MemberServices@metrobc.org)

Metropolitan Builders & Contractors Association of NJ

39 East Hanover Avenue, Suite C2, Morris Plains, NJ 07950

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Logo Banners and Links on Metro Website	✓	✓	✓
OnSite Magazine Advertising	✓	✓	✓
Directory Advertising	✓	✓	✓
Installation Sponsorship	✓	✓	✓
Dinner Meetings	✓	✓	✓
Speaker Opportunity	✓	✓	
Awards of Excellence	✓	✓	
Golf Outing	✓		
Special Event Sponsorship	✓		

*\*Being a Gold Hammer Sponsor with Metro has many benefits which we have listed, including heightened visibility within the association. It has also provided our employees with valuable insights and benefits through our interaction with all members of Metro and the NJBA. These benefits are not only through marketing and visibility, but also include interaction with member businesses which assist our organization in keeping pace with market trends, changes in regulatory requirements, and other valuable insights. We find great value in our Gold Hammer Sponsorship! - Eric Keller, Bowman Consulting*

Call our office today for complete details about what each sponsorship level includes or visit our website [www.MetroBCA.org](http://www.MetroBCA.org) under "Get Involved"

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# GRILLIN N CHILLIN 2022

Membership Committee Chair  
Karen Adamsbaum with  
a few of Metro's New Members  
Geeta Trikha, Tony Ettore  
and Joseph Mellet



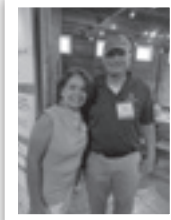
Franz Laki of  
SESI Consulting Engineers



Ernie Hofmann, Frank Belgiovine  
and Jonni Clause



NJBA President Tom Bovino and  
Past Metro Presidents Rich Boisch  
and Phil Calinda



Suzanne and David Bossart



Vern Tatum of Carolina Blue Painting with Tony Cretella of Custom Sign Source  
and Brian Maffia of General Plumbing Supply



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# Installation Dinner

And  
Holiday Party

Thursday, December 15th

6:00 - 9:00 pm

\$125 p/p

Register by  
Nov. 25th

The Bridgewater Manor

1251 US-206, Bridgewater Township, NJ 08807

### Installation Event Sponsor - \$2,000

Six (6) Tickets - Reserved Seating - Signage at Cocktail Reception - Full Page Program Ad - Recognition prior to & during the event - Sponsorship & Full Color Ad in Onsite

### Gold Sponsor - \$1,000

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### Silver Sponsor - \$750

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### Supporter - \$500

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Please Join Metro for our next

**General Membership Meeting  
and  
Election of Officers and Board of Directors**

**Thursday, November 17th  
6:00 pm**

Bridgewater Manor  
1251 US-206  
Bridgewater Township, NJ 08807

**Guest Speaker**  
Joseph Andolino, Esq. Smolin  
**Inflation Reduction Act: What you Need to Know**

**Members we MUST have a Quorum  
Minimum of 15 Builders for the Vote**

**Register online to attend.**

Members - \$95  
Non-Members - \$115

*See Page 7 for the Nominating Committee's Proposed 2023 Slate*

**\*\*Please Note: The bar for this event will be a CASH ONLY bar. They will not accept any other payment type except CASH\*\***

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