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**TESTIMONY**

**By**

**Nadine Stannard, Owner & President  
Associated Material & Supply Company Inc.**

**Before the Kansas House Committee on Judiciary**

**Regarding HB 2173- a bill dealing with liens**

March 19, 2013

Mr. Chair and Members of the Committee

My name is Nadine Stannard, President of Associated Material & Supply Company, Inc. We own and operate two sand and gravel production sites in South Central Kansas.

I am appearing on my own behalf, however I also serve on the legislative committees of the Wichita Area Builders Association, Kansas Aggregate Producers Association and the Kansas Contractors Association. I am

currently the Vice President of the Kansas Aggregation Producers Association.

All three associations reassessed their positions regarding the lien legislation recently and all three associations continue to oppose it.

The 1100 + members of the Wichita Area Builders Association are engaged in all facets of residential and non-residential construction. Relatively few non-residential contractors think the proposed legislation might have some merit. The majority do not think there is merit in the legislation, and are not willing to support the creation of more government in the name of protections of their respective businesses.

While the current lien laws are not perfect nor effective in all cases, they do provide the business owner with a process, that when followed as intended, offer a reasonable degree of protection. Yes, the general contractors have to take steps, just as the rest of us do,

- \* to know with whom we are doing business and how they operate;
- \* to monitor who is a supplier and subcontractor in order to assure things are kept in check as desired; and
- \* to employ best management practices suitable for use in their businesses in order to assure that those involved are doing business with each other as agreed by contract, whether written or implied.

Good business owners know that we cannot abdicate our business responsibilities to some other entity that has no vested interest without paying dearly monetarily as well as with unintended consequences of the rules and regulations adopted to enforce the perceived intent of legislation

Suppliers are at the lowest level of the construction food chain. The General Contractors are at the top of the construction food chain. Because of this the General Contractor has the leverage to control who they do business with better than the supplier. Let me explain the process of my day to day operation.

A truck will come into the yard to load with material. The trucker may or may not have been at our facility before. We have to determine that for safety reasons. The trucker may be the customer or may be hired by the customer. We have to determine that! Often the trucker will be the customer sometimes and be hired by the customer at other times.

Sometimes the trucker will weigh out with the load intended for a job, but have the load diverted to another job after it leaves our facility. We sell to some contractors who have residential and non-residential projects. We would have to differentiate between the two. Many of my customers value their privacy and don't want to divulge the destination of the material because I sell material to their competitors. I wonder what they will say if I tell them that their Legislator passed a regulation that puts me in a position of having to know where they are going with the load.

I'm questioning whether or not it is possible to track every load that leaves the yard in order to register online with a governmental agency. We often have 100-200 trucks leaving our plant each day. It would be expensive for me to hire the personnel to track the trucks even if the General Contractors are willing to pay the registration fees. Therefore, as a supplier, at the lowest level of the construction food chain, I could never use the registry. There are, unfortunately, contractors who would take advantage of that and refuse to pay based on the lack of registry. I would be legislated out of the lien law process.

If the General Contractors aren't willing to be responsible for their sub-contractors, how long will they be willing to be responsible for the fees for the registry?

With so many opposed to this legislation, it appears to me that HB 2171 would be legislating against the majority. Unpopular legislation creates animosity.

I will be glad to answer any questions you might have.

Thank you,

Nadine Stannard