

ON CAPTURING THE BANDITOS:

A Short Expose' of An Arizona Protection Racket In
The Construction Trades.... And Who to Hang For it and How!

“Badges? Badges?... We don’t need no stinking badges!” It’s the Bandito’s infamous refrain from the 1947 classic, “Treasure of the Sierra Madres” when, posing as a federal policeman, the murderous crook is asked by Humphrey Bogart to show him a badge to prove his claim that he is a cop. In considerable parallel, it’s the same refrain that can be heard from just about every drafter or “planner” concocting residential construction plans in Arizona when asked to prove that they are, indeed, the architect or engineer they purport to be. They not only have no such scholastic attainment, but, in Arizona, they don’t even have to have a license or registration (let alone talent!) to dictate every engineering and construction aspect as to how your home will be built! That’s what I said. The fact is, under Arizona law, dominated and dumbed-down as few others in this country by an anti-consumer construction lobby and it’s well-greased legislative lackeys, anyone—a child, and illiterate, a felon, a crazy person or someone “who took some drafting in high school!”—can legally design and engineer your home. And if was built after the 70’s, one probably did.

“Licenses? Registrations? Hell no, folks! In Arizona they “don’t need no stinking certifications!” The city and county building department will stamp “APPROVED” on their Bandito architectural abominations and the plans for the engineering Frankenstein you are about to invest your life savings in faster then you can say “sssssswindled.” Consequently, a few years after you are handed the key to your new home, the dead bodies of unattended technology (unstabilized soils, drainage dead ends, materials and structural mis-calculations, or more commonly, no calculations at all) buried on your lot and in your framing usually float stinkingly to the surface as the slab deforms, the structure twists in the wind, stucco cracks and peels and the resultant mold sets in . As problems keep popping up, as your home turns into shards and in general comes closer and closer to resembling the property in Poltergeist I, it is then you realize once again that in this territory where the law seems a three-month ride across the Badlands and where consequently the Banditos can maraude at will: “You’ve Been Had.”

Welcome to Arizona, home of the legislative Dry gulch, where the Black Bart construction lobby, having totally intimidated the town counsel, the town marshal and the town press (either with bushels of money or threats of “two shots in the back and a long drop down a political well”), the term “justice” is spelled “Just-Us.” It wasn’t always like this. Before Black Bart showed up, this town of good God-fearing people, legislators, cops and judges had some law in it. That was also true in it’s regulation of home building and especially home architecture and engineering.

In 1935, A.R.S. Title 32, Chapter 1 was enacted to provide and enforce standards and mandatory qualifications for engineers, architects, surveyors, assayers, geologists and the like. A new Board of Technical Registration (the “BOTR”) was formed to qualify, register and discipline them. It was mandated that registrants had to be of good moral character and repute, be a graduate of a BOTR-approved school and continue to be actively engaged in education and have passed rigorous professional examinations. In addition the laws provided that no one could perform these professional activities without this kind of registration and process. Finally, after the years

of construction anarchy in which anyone with temerity alone (since skill or talent was not a recognized criterion) could take a shot at engineering a structure (thereafter, shot-through with defects, to fall down or disintegrate, leaving the owner bushwhacked), Arizona had at long last found the guts to form a legislative posse, curb the crooks and chase them out of town. By God, it had joined the 21 st Century.If only it would have lasted!

When the smaller bands of local unregistered “planners” and related crooks were legislatively driven out in 1935, Arizona was a sleepy place with few riches and not particularly attractive to the much more powerful pillaging armies of construction crooks elsewhere in the country. In the east and in some places in the Midwest, construction criminals had raided much wealthier states and peoples for so many years after the war that they had grown into massive commercial syndicates, big and powerful enough to be traded on Wall Street. Instead of chaps, Black Bart now wore silk suits. Instead of bullets to hold up the stage and slay the rights of the innocent, he used cadres of lawyers and backdoor accesses to the state house. It worked until the late 1960’s and early 1970s, when public patience in those states wore out (and it sometimes seems that the common people were stronger and more involved in righting wrongs in those days, as well).

In defense and with incredible foresight and bravery, their victims—the home-buying public and legislatures—organized to form the mother-of-all-posses (consumer watchdog groups who also had lots of lawyers) and passed astringent construction trade licensing, registration, and disciplinary boards. The legislature—ever fearful of who had the most lawyers—grudgingly voted in consumer warranty laws which terminated Bart’s shoddy building ways and barred his access to the public coffers for free money to build roads and utilities right up to the doors of his investments—a rip off tripling the value of his already mounded private swag at huge and decades-long public costs in off-site infrastructures. Black Bart’s own rapacity and above-the-law pomposity had grown so outrageous and annealing that he virtually fermented the entire local constituency against him. The message for the Black Bart Gang was clear: Time to move someplace where the town marshal has gone fishing and the dog sleeps in the center of the main street all day. Hey, maybe one of those remaining fringe locales far from the national spotlight with new public lucre to shanghai and new legislators, governors and judges to buy?

And nowhere were those kinds of people more ready to be bought than Arizona. By the sheer rawness and rapine which typically accompanies an emerging provincial capitalism, there had come to be in the 1970’s a far different Politico in Arizona than the one who walked the halls of power during the people-friendly, post-depression 1935 regulatory era. “Might is right” had replaced “We, The People” and the state had just fielded one of the most rampageous right-winged individuals in the history of American presidential politics as proof of it (beloved for his hard-core “pro-business” stance in Arizona, scourged and voted down flatly as a reactionary Hoover-era hangover everywhere else in the country). None other than Barry, himself. (Interestingly, a man who came with his later advanced age to sound like a liberal in this state, probably telling us more about the politics in this state than himself.)

But Barry, then known as “J.C.” in Arizona, was in Washington urging that the Russians be mercilessly nuked so he was not available for the local Black Bart welcoming Committee. But Burton Barr, then known as J.C.’s “Apostle Paul”, being true to the Neo-Hooverian cause so discredited in 1929, and who never saw a 21 st Century trade regulation or labor protection he

ever liked, was available to do the hatchet work.. Since neither Burton nor Black Bart were unfamiliar with the “smoke filled back room”, it was there they met and cooked up a deal to trivialize technical talent and denude the consumer and set the state ‘s progress back four decades nearer to the Jurassic Era.

Burton Barr introduced as a “consumer-protection” act (read “consumer-predation”) the infamous House Bill 317, which, under the pretext of sweetening the sip, in effect, laced the carefully poured BOTR regulatory cup offered to the home-buying consumer with a lethal doses of legislative arsenic. He legislated an “exception” to the BOTR framework, which allowed that “notwithstanding” all of the immense protection for homebuyers the 1935 legislature had implemented, and which had been flawlessly and rightly enforced for 40 years, ANYONE could “design a single-family home!” Say what?! Yes. Anyone. Just a little exception. That swallowed a state.

It was that change which in one gulp swallowed the entire architectural community and, to some extent, most of the residential engineering industry in Arizona. Now anyone with a heartbeat (and a black heart at that) could “be one ‘er them thar arkyteks ‘er injaneers” and design and engineer your home. And from that point on mostly did. With the expense of actually getting licensed or registered professional input into building a home now pretty much outlawed in Arizona and with the few who were left after the blitz willing to “work for food” and thus do anything Black Bart said (6 feet between studs and joists—no problem, boss!) to get paid, the “regulatory coast was clear” and the Black Barts of the planet flooded back into Arizona and the rest, as they say, has been “history.” An Arizona epidemic of defective homes and home defect litigation, billions of taxpayer savings squandered into residential properties that almost immediately fall-down-go-boom. Add to that the lax inspection by building departments more afraid of Black Bart and his gang than of the consumers and a Black Bart legislature making it ever-harder for the consumer to get a fair legal shake in a builder dispute and saddling the consumer with ever-greater taxes and bonds to pave the streets to Black Bart’s investment so he can enrich himself on the public dime and it’s a prescription for disaster.

And for those of us in the engineering and defect-remediation field, this nightmarish kaleidoscope of mis-architecture and mis-engineering and network of legislative and judicial Black Bart Protection Rackets where the “fix is always in” has, for the consumer whose dollars are actually the ones that feed the success of this state, resembled nothing so more as that: Construction Armageddon. It a caldron of political intrigue and consequent public loss that is tellingly found only in the three or so states that Black Bart has still been permitted by the local well-greased Politicos to control.

Look, folks. It’s the Third Millennia. It’s well-past time for Arizona to rejoin the consumer-conscious mainstream of America where every citizen is a stakeholder.

Where is the Marshall Dillon or Kojac who will lead the posse to ride once again fearlessly into Black Bart’s political hideouts and Clean House like this state did in 1935? The Arizona public—ever more composed of people from other states that have no problem outlawing crime and jailing the crooks and their lackeys--needs to demand that its cops—the legislators, regulators and judges—vigilantly recommence giving them the protection from Banditos they

are due in a modern society and for which they are ever-more dearly paying through inflating taxes, bonds and levies in this state.

Arizonans need to demand “who are these legislators, cops and judges on Black Bart’s dole”? “Who are the Banditos posing as our cops?” One need not be Sherlock Holmes to find them. They can readily identified by following their abysmal consumer records in the legislature, in regulatory office and on the bench. And then, once exposed, Arizonans can waive a noose in front of their faces and once and for all, for the protection of them and of their children, use the ballot box, e-mail, pickets and publicity to just plain run them the hell permanently out of this town.

‘Nuff said

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