

STATE OF ILLINOIS – DEPARTMENT OF LABOR
160 N. LASALLE ST., STE. C-1300
CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)	
)	
CATHY JONES AND SCOTT JONES,)	
)	
PETITIONER(S),)	STATE FILE NO. 2018-H-PK07-1914
)	
v.)	DATE OF NOTICE: <u>7-17-2017</u>
)	
JOSEPH BEYER, DIRECTOR OF THE)	CERT. MAIL/RETURN RECEIPT:
ILLINOIS DEPARTMENT OF LABOR, and)	
THE ILLINOIS DEPARTMENT OF LABOR,)	<u>7017 0536 0000 1521 1885</u>
)	
RESPONDENTS.)	
)	

NOTICE OF HEARING

PLEASE TAKE NOTICE that Joseph Beyer, Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from Cathy Jones and Scott Jones [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on May 26, 2017, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "PWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

DATE: AUGUST 2, 2017
TIME: 1:00 P.M.
PLACE: ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

CLAUDIA D. MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.

A handwritten signature in black ink, appearing to read "Joseph T. Beyer", written over a horizontal line.

Joseph Beyer
Director of Labor

STATE OF ILLINOIS- DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
160 N. LASALLE STREET, SUITE C-1300
CHICAGO, IL 60601

IN THE MATTER OF:)
)
CATHY JONES and SCOTT JONES,)
)
Petitioner,)
v.)
)
JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR and)
the ILLINOIS DEPARTMENT OF LABOR,)
)
Respondents.)

STATE FILE NO. 2018-H-PROT-1914
JUL 11 2017
ILLINOIS DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
CHICAGO, ILLINOIS

OBJECTIONS AND REQUEST FOR SECTION 9 HEARING

Petitioners, Cathy Jones and Scott Jones, construction workers performing work on Illinois public works projects for Brandt Construction, Inc. (a non-union shop) from July 15, 2016 through June 5, 2017, by and through their attorney, Lance T. Jones of HeplerBroom, LLC, seek to formally object to the prevailing wage determination posted by the Illinois Department of Labor ("Department") on its website on May 26, 2017 and request a hearing on these objections pursuant to Section 9 of the Illinois Prevailing Wage Act (820 ILCS § 130/9). In support, Petitioners state as follows:

1. Petitioners, Cathy Jones and Scott Jones, are construction workers on Illinois public works projects and have worked on public works projects for Brandt Construction, Inc., a non-union contractor, between July 1, 2016 and June 5, 2017.

EXHIBIT A

2. The Illinois Prevailing Wage Act (“PWA” or “Act”) establishes public policy stating:

Sec. 1. It is the policy of the State of Illinois *that a wage of no less than the general prevailing hourly rate as paid for work of a similar character in the locality in which the work is performed, shall be paid to all laborers, workers and mechanics employed by or on behalf of any and all public bodies engaged in public works.*

820 ILCS 130/1 (emphasis added).

3. The PWA provides that:

Sec. 3. Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for legal holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction or demolition of public works.

* * *

Id. § 3.

4. Section 9 of the Act requires “each public body” to “publicly post” and “file” its prevailing wage determination “in the office of the Illinois Department of Labor” by “no later than July 15 of each year.” *Id.* § 9. Pursuant to Section 2 of the Act, “public body” includes “the State or any officer, board or commission of the State or any political subdivision or department thereof.” *Id.* § 2.

5. Section 9 of the Act also states that “the Department of Labor shall during the month of June of each calendar year, investigate and ascertain the prevailing rate of wages for each county in the State.” *Id.* §9. If a public body other than the Department

fails to post and file its prevailing wage determination, the Department's determination for the county of that public body shall be the prevailing rate of wages.

6. On information and belief, the Department ascertained the prevailing rate of wages for each county in Illinois in June of 2016, but failed to post on its website the 2016 prevailing rate of wages for each county. Instead, on or about July 12, 2016, the Department posted the following misleading and erroneous information on its website:

The 2015 prevailing wage rates are still in effect until the Department publishes the 2016 rates. The Department is in the process of determining 2016 rates and expects to have them published by late August. July 15 remains the statutory deadline for local governments to provide copies of their rates to the Department, but is not the deadline for the Department to publish its new rates.

7. On information and belief, objections to the July 2016 posting were filed and pending while public bodies continued work on projects. According to Section 11 of the Act, these projects were to be discontinued unless sufficient wages were available to pay increased wages if such were finally determined. *Id.* § 11.

8. On May 26, 2017, the Department published the 2016 Prevailing Wage rates for each county on its website. In this posting, the Illinois Department of Labor, acting without authority and contrary to statute, incorrectly stated that the 2016 prevailing wage rate was applicable on June 5, 2017, instead of July 15, 2016, as provided under Sections 9 and 11 of the Act.

9. Petitioner objects to this published prevailing wage determination.

10. After July 15, 2016, Petitioners worked on public works projects for a non-union contractor, Brandt Construction, Inc. Petitioners were paid wages for this work at the 2015 prevailing rate of wages, instead of the higher 2016 prevailing rate of wages.

11. Pursuant to Section 11 of the Act, if the posted prevailing rate of wages is subsequently determined to be wrong, public works contractors are required to pay the increased wages to its employees. *Id.* § 11.

12. Petitioners object to the 2016 wage determination posted on May 26, 2017 as it is contrary to the Act's legislative scheme, arbitrarily provides for an enforcement date of June 5, 2017, instead of July 15, 2016, and deprives them of receiving the 2016 prevailing rate of wages for work on public works projects between July 15, 2016 through June 5, 2017.

WHEREFORE, for the reasons set forth above, Petitioners Cathy Jones and Scott Jones, object to the prevailing wage determination posted on the Department's website on May 26, 2017 and respectfully request a hearing on these objections pursuant to 820 ILCS § 130/9.

Respectfully Submitted,

Cathy and Scott Jones, Petitioners

By: 

Lance T. Jones

Lance T. Jones #6188153
HeplerBroom, LLC
4340 Acer Grove Drive, Suite A
Springfield, IL 62711
Ph: (217) 528-3674
Fax: (217) 528-3964
Email: ltj@heplerbroom.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the Illinois Department of Labor in the above referenced matter via hand delivery, on June 26, 2017 to the following:

Illinois Department of Labor
160 North LaSalle, Suite C-1300
Chicago, IL 60601



CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Ann Harrison, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Notice of Hearing upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Notice of Hearing in Case No. 2018-H-PK07-1914 and a copy of the Certificate of Service in an envelope addressed to each party or party's agent at the respective address shown on the Certificate of Service, having caused each envelope to be served by U.S. mail certified mail return receipt requested and at 100 W. Randolph Street, Chicago, Illinois on the ____ day of July, 2017 prior to 4:30 p.m. and placed on the Illinois Department of Labor's official website at and placed on the Illinois Department of Labor's official website at www.state.il.us/agency/idol/

Cathy and Scott Jones
c/o Lance T. Jones
HeplerBroom LLC
4340 Acer Grove Dr., Ste. A
Springfield, IL 62711
ltj@heplerbroom.com

Via messenger:

Benno Weisberg
General Counsel
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Ann Harrison

Subscribed and Sworn to this 17th day of July, 2017

Laura Mary Koteiman

Notary Public

