

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

IN THE MATTER OF:)	
)	
DAN O'CONNELL, as a member of the)	
CHICAGO REGIONAL COUNCIL OF)	
CARPENTERS,)	
)	
PETITIONER(S),)	STATE FILE NO. 2018-H-PK07-1915
)	
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 0530 0006 1521 1878</u>
)	
RESPONDENT.)	
)	

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 Dan O'Connell, as a member of the Chicago Regional Council of Carpenters [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, "IPWA" 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: 2:00 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.



Joseph Beyer
Director of Labor

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

IN THE MATTER OF:)
)
DAN O'CONNELL, as a member of the)
CHICAGO REGIONAL COUNCIL OF)
CARPENTERS,)
)
Petitioners,)
)
Vs.)
)
)
JOE BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR and the ILLINOIS)
DEPARTMENT OF LABOR,)
)
Respondents.)

STATE FILE NO. 2018-H-PK07-1915

OBJECTION AND REQUEST FOR SECTION 9 HEARING

Petitioners Dan O'Connell, as a member of the Chicago Regional Council of Carpenters (known collectively as the "CRCC"), by and through their attorney, Nick Kasmer, of the law firm of McGarr, Ketterman, & Rioux, seek to formally object to the Prevailing Wage determination published by the Illinois Department of Labor ("Department") on its website in May of 2017 and request a hearing on these objections pursuant to Section 9 of the Illinois Prevailing Wage Act (820 JLCS § 130/9). In support, the CRCC state further;

EXHIBIT A

1. Dan O'Connell ("O'Connell") is a member of the United Brotherhood of Carpenters and Joiners of America ("UBC") and Chicago Regional Council of Carpenters ("CRCC").
2. The UBC is a national labor organization consisting of the members of Local Carpenters Unions.
3. The CRCC is a regional labor organization and an affiliate of the UBC which represents local UBC unions in counties in Iowa and Illinois.
4. Section 9 of the Illinois Prevailing Wage Act states: "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." 820 ILCS § 130/9
5. Historically, and as part of the Section 9 Wage determination process, the CRCC submitted Prevailing Wage Certification Forms to the Department. These materials listed the rates and fringe benefits paid to the following Prevailing Wage Classifications: Carpenter (6422), Lather (6424), Piledriver (6476), and Tile Layer (6423) in various counties throughout Illinois.
6. Historically, the Department abided by its statutory obligation to ascertain the prevailing rates in the month of June, and would then post the Prevailing Wage rates for each established classification consistent with the materials provided by the CRCC described above by July 15 of each year effective back to the first date of June.

7. In 2016, the CRCC obtained Prevailing Wage Certification Forms from the Department's official website and submitted the appropriate forms in May 2016.
8. The Department later in the summer of 2016 informed the CRCC that it would be conducting an internet based survey.
9. The CRCC submitted that requested information to the Department on or around June or July of 2016.
10. Section 9 of the Prevailing Wage 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." Section 2 of the Prevailing Wage Act defines "public body" to include "the State or any officer, board or commission of the State or any political subdivision or department thereof ... "
11. In July 2016, the Department posted on its website the following regarding the 2016 prevailing wage determinations:

"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."
12. The Department did not publish the 2016 prevailing wage rates in August of 2016.

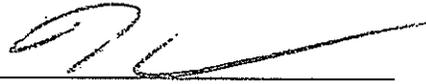
13. The Department published the 2016 prevailing wage rates in May of 2017 only after being ordered to do so as part of several ongoing cases against the Department in the Circuit Court of Cook County.
14. The Department published the 2016 prevailing wage rates with an effective date of June 5, 2017.
15. CRCC objects to the effective date of the 2016 prevailing wage rates.
16. The Department historically has published the prevailing wage rates with an effective date of June 1 of that corresponding year.
17. The information provided by the CRCC for the 2016 prevailing wage rates was applicable to the time period of roughly June of 2016 through May of 2017.
18. The effective date of the 2016 prevailing wage rate set by the Department though makes the rates that were in effect for 2015 in effect for 2016 and the rates that should have been in effect in 2016 in effect for 2017.
19. It is the CRCC's position that the prevailing wage rates that were in effect from roughly June of 2016 through May of 2017 did not reflect the rates that were paid for those classifications listed in paragraph 5 of this Complaint.
20. This has resulted in the loss of wages for CRCC members as certain collective bargaining agreements between the CRCC and various employers provide that CRCC members will be paid according to the prevailing wage rate as set forth by the Department.

WHEREFORE, for the reasons set forth above the Petitioner, Dan O'Connell, as a member of the Chicago Regional Council of Carpenters, object to the Prevailing Wage determination posted on the Department's official website in May of 2017 and respectfully request a hearing on these objections pursuant to 820 ILCS § 130/9.

June 26, 2017

Respectfully submitted,

DAN O'CONNELL, as a member of the
CHICAGO REGIONAL COUNCIL OF
CARPENTERS

By: 
One of its attorneys

Nicholas E. Kasmer
McGann, Ketterman, & Rioux
111 East Wacker Drive, Suite 2600
Chicago, IL 60601
(312) 251-9700
June 26, 2017

CERTIFICATE OF SERVICE

The undersigned certifies that he caused copies of the foregoing Notice of Filing and Objections and Request for Section 9 Hearing to be served upon the following persons, via hand delivery, this 26th day of June, 2017:

Joe Beyer
Director of the Illinois Department of Labor
160 N. LaSalle Street, Suite C-1300
Chicago, IL. 60601

Illinois Department of Labor
c/o Joe Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, IL. 60601

By 

Nicholas E. Kasmer

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

IN THE MATTER OF:)
)
DAN O'CONNELL, as a member of the) STATE FILE NO.
CHICAGO REGIONAL COUNCIL OF)
CARPENTERS,)
)
Petitioners,)
)
Vs.)
)
)
JOE BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR and the ILLINOIS)
DEPARTMENT OF LABOR,)
)
Respondents.)

NOTICE OF FILING

TO: Joe Beyer
Director of the Illinois Department of Labor
160 N. LaSalle Street, Suite C-1300
Chicago, IL. 60601

Illinois Department of Labor
c/o Joe Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, IL. 60601

PLEASE TAKE NOTICE that on this 26th day of June, 2017. The undersigned filed the attached Objections and Request for Section 9 Hearing, a copy of which is herewith served upon you.

Respectfully submitted,

DAN O'CONNELL, as a member of the
CHICAGO REGIONAL COUNCIL OF
CARPENTERS

By: 
One of its attorneys

Nicholas E. Kasmer
McGann, Ketterman, & Rioux
111 East Wacker Drive, Suite 2600
Chicago, IL 60601
(312) 251-9700
June 26, 2017

JUN 26 2017

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-PK07-1915 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/

Dan O'Connell,
c/o Nicholas Kasmer
McGann Kefferman & Rioux
111 E. Wacker Dr., Ste. 2600
Chicago, IL 60601
nkasmer@mkrlaborlaw.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 Kotelman
Notary Public

