

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

MID-AMERICA CARPENTERS
REGIONAL COUNCIL

PETITIONER(S),

STATE FILE NO. 2022-H-RP01-2337

v.

DANA M. O'LEARY, ACTING DIRECTOR OF THE
ILLINOIS DEPARTMENT OF LABOR, and
THE ILLINOIS DEPARTMENT OF LABOR,

RESPONDENTS.

ORDER

THIS MATTER COMING on to be heard under the Prevailing Wage Act, 820 ILCS 130/0.01-12 and Notice of Hearing issued there under; and, pursuant to 56 Illinois Administrative Code 120.400 all parties having been duly advised on the premises issues this order;

IT IS HEREBY ORDERED:

1. Pursuant to 56 IAC 120.400 a **telephonic** pre-hearing conference shall be convened telephonically on **February 23, 2022 at 10:00 a.m.** The administrative law judge will initiate the conference call. Complainant attorney Terrence McGann will be phoned at **312-251-0700**. Respondent Attorney Yolanda Carrillo will be phoned at 312-793-1002. Technology constraints require that a direct dial phone number be provided for the pre-hearing conference. If the number listed is not a direct dial number or you require additional phone lines to be added, you are to provide the phone numbers and/or the names and phone numbers of the additional participants to DOL.hearings@illinois.gov
2. The pre-hearing conference shall be held to simplify the issues, determine necessity or desirability of amendment to documents for purposes of clarification, simplification or limitation, determine stipulations, admission of fact and of contents and authenticity of the documents, limit the number of witnesses, determine propriety of the prior mutual exchange among the parties who have prepared testimony or exhibits, and decide other matters as may tend to expedite the disposition of the proceedings and to assure a just conclusion thereof.
3. Attorneys shall file appearances as soon as practicable.

DATE: February 7, 2022

By: /s/ Claudia D. Manley
Claudia D. Manley
Chief Administrative Law Judge
IDOL
160 N. LaSalle St. Ste. C-1300
Chicago IL 60601

V: 312-793-1805
F: 312-793-5257
DoI.hearings@illinois.gov

STATE OF ILLINOIS)
)
)
COUNTY OF COOK)

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Karen Lewis, a non-attorney, affirm, certify or on oath state, that I served notice of the attached Order upon all parties to this case, or their agents appointed to receive service of process, by enclosing a copy of the Order in Case No. 2022-H-RP01-2337 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 order or on the Certificate of Service, having caused each envelope to be served by U.S. I mail with postage prepaid at 100 W. Randolph Street, Chicago, Illinois on the 8 day of February, 2022 prior to 4:30 p.m.

TERRANCE MCGANN
MCGANN KETTERMAN & RIOUS
111 E. WACKER DR., STE. 2300
CHICAGO, IL 60601
TMCGANN@mkrlaborlaw.com

Yolanda Carrillo
General Counsel
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago IL 60601
Yolanda.carrillo@illinois.gov

HAND DELIVERED:
Dana M. O'Leary
Acting Director of Labor
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601



Illinois Department of Labor

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

IN THE MATTER OF:)
)
MID-AMERICA CARPENTERS)
REGIONAL COUNCIL)
)
PETITIONER(S),) STATE FILE NO. 2022-H-RP01-2337
)
v.) DATE OF NOTICE: February 8, 2022
)
DANA M. O'LEARY, ACTING DIRECTOR OF THE) CERT. MAIL/RETURN RECEIPT:
ILLINOIS DEPARTMENT OF LABOR, and) 9489 0090 0027 6192 0060 55
THE ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)

NOTICE OF TELEPHONIC HEARING

PLEASE TAKE NOTICE that Dana M. O'Leary, Acting Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from Mid-America Carpenters Regional Council, [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations effective January 6, 2022 by the Department on its website, 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: March 10, 2022
TIME: 10:00 a.m.
COMPLAINANT ATTORNEY PHONE #: 312-251-0700
RESPONDENT ATTORNEY PHONE #: 312-793-1002

ADMINISTRATIVE LAW JUDGE:

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

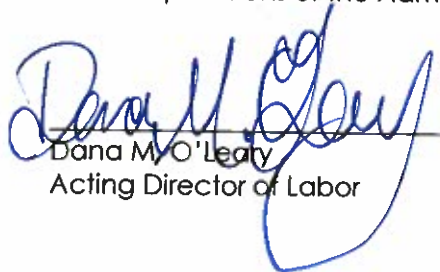
The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

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.

This hearing will be conducted **BY TELEPHONE** with the ALJ contacting you on the date and time stated above. If the phone number listed is incorrect, contact the hearings section at dol.hearings@illinois.gov as soon as possible with the corrected number. If additional individuals are to be contacted, the party is to provide the name and direct dial phone number of the additional individual to be included during the hearing to DOL.hearing@illinois.gov. If the phone number listed is not a direct dial phone number, please provide a **DIRECT DIAL NUMBER** to dol.hearings@illinois.gov as soon as possible. Technology constraints require you provide a **DIRECT DIAL PHONE NUMBER ONLY**. Also, technology constraints do not allow caller dial through or the ability to navigate automated operators. Non-direct dial numbers will result in the call not going through. **For those with caller identification, this call will originate from various locations throughout the country, including but not limited to San Francisco. SOME CALLS PLACED BY THE DEPARTMENT ARE BLOCKED, IF YOUR PHONE HAS PRIVACY MANAGER OR ANONYMOUS CALL BLOCKER, THE CALL MAY NOT GO THROUGH.** All calls placed by the Department are recorded.

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.



Dana M. O'Leary
Acting 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:)	
)	
MID-AMERICA CARPENTERS)	STATE FILE NO.:
REGIONAL COUNCIL)	
)	
Petitioners,)	
)	
vs.)	
)	
MICHAEL D. KLEINIK, DIRECTOR OF)	
THE ILLINOIS DEPARTMENT OF)	
LABOR and the ILLINOIS)	
DEPARTMENT OF LABOR,)	
)	
Respondents.)	

NOTICE OF FILING

TO:

Michael D. Kleinik
Director
Illinois Department of Labor
Michael A. Bilandic Building
160 N. LaSalle St., FL-13
Chicago, IL 60601

Yolanda Carrillo
Chief Legal Counsel
Illinois Department of Labor
Michael A. Bilandic Building
160 N. LaSalle St., FL-13
Chicago, IL 60601
Yolanda.carrillo@Illinois.gov

PLEASE TAKE NOTICE that on this 28th day of January, 2022 the undersigned filed the attached Objections and Request for Section 9 Hearing, a copy of which is herewith served upon you.

RECEIVED

JAN 28 2022

ILLINOIS DEPARTMENT OF LABOR
CHICAGO OFFICE

Dated: January 28, 2022

McGann, Ketterman, & Rioux
111 East Wacker Drive, Suite 2300
Chicago, IL 60601
(312) 251-9700

Respectfully submitted,
Mid-America Carpenters Regional
Council
By: /s/ Terrance B. McGann
One of its attorneys

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

IN THE MATTER OF:)
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MID-AMERICA CARPENTERS) STATE FILE NO.:
REGIONAL COUNCIL)
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Petitioners,)
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vs.)
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MICHAEL D. KLEINIK, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR and the ILLINOIS)
DEPARTMENT OF LABOR,)
)
Respondents.)

**OBJECTION AND PETITION FOR EXPLANATION OF CARPENTER
CLASSIFICATION IN DEKALB COUNTY AND REQUEST FOR HEARING
UNDER SECTION 9 OF THE ACT**

Petitioner, the Mid-America Carpenters Regional Council ("Carpenters"), by and through their attorney, Terrance B. McGann, of the law firm of McGann, Ketterman, & Rioux, objects to and seeks to formally petition for an explanation of the carpenter classification in the prevailing wage determinations for DeKalb County published by the Illinois Department of Labor ("Department") on January 6, 2022 and request a hearing pursuant to Section 9 of the Illinois Prevailing Wage Act (820 ILCS §§ 130/9) ("Act"). In support, the Carpenters state further:

1. On January 6, 2022 the Department published on its website the Prevailing Wage rates for DeKalb County.

2. The prevailing wage rate posted on the Department's website for the trade of "Carpenter, BLD" is based upon the Carpenters' Collective Bargaining Agreement covering commercial work performed in DeKalb County in its entirety, and the portion of Ogle County defined by the following boundaries: IL Route 72, Meridian Road and the Southern Ogle County line; and the portion of Lee County defined as east of Brooklyn Road. (Exhibit A, Carpenters Local 790, 2019-2022 CBA).

3. Article I, Section 6 of the Carpenters' CBA defines its occupational scope of work to include, in part, the following:

"All installations, erection, and connection of, but not limited to, building integrated photovoltaic arrays, solar shingles, ground mount systems (commercial, industrial, and residential), roof mount systems (commercial, industrial, and residential), and utility scale ground mount systems (shade structures, self supporting structures, parking structures, awning structures) solar panels, arrays, modules, concentrating panels, flat panels, photovoltaic panels, including their supporting structures, shade structures, stand alone, etc., both on and off shore. Structural upgrades to buildings or roof systems, including but not limited to, installation or replacement of joists, purlins, beams, laminated beams, ledger bolts ledgers, expansion joints, sheeting, and applying or replacing of roofing materials.

The Carpenters work involved with these systems include, but are not limited to excavation, layout, benchmarks, digging footings, setting footings, setting of all forms, placement of concrete, blackouts, templates for bolts, lift points, knee braces, cross braces, stripping of forms, rigging, erection of structures (metal, steel, alloy, wood, plastic, or any substitute material or composite), setting, plumbing and aligning, welding, drilling, cleaning, and caulking."

(Exhibit A, pp. 7-8, lines 126-141).

4. On or about November, 2021 the Department issued findings in IDOL Case No. 2020-PW-WA05-2795, against Johnco Construction, Inc. ("Johnco") stating that Johnco, who is signatory to the 2019-2022 Carpenters CBA covering work in DeKalb

County, failed to pay its employees the prevailing rate of wage for work performed on the Somonauk Elementary Solar Field.

5. The work performed by Johnco's employees on the Somonauk Elementary Solar Field was covered by Article I, Section 6 of the Carpenters' CBA for DeKalb County. Johnco provided the Department with documentation showing that its employees performing work on the Somonauk Elementary Solar Field project were performing work under the Carpenters' CBA for DeKalb County and were paid the appropriate prevailing wage rate pursuant to that CBA and the Department's established wage rate for a Carpenter in DeKalb County at the time the work was performed.

6. Johnco has filed an objection to the Department's finding of a violation in Case No. 2020-PW-WA05-2795.

7. Section 9 of the Illinois Prevailing Wage Act states: "[I]f the prevailing rate of wages is based on a collective bargaining agreement, the explanation of classes on the prevailing wage schedule shall be consistent with the classifications established under the collective bargaining agreement." 820 ILCS 130/9.

8. In order to effectuate the Act, it is necessary that the explanation of classes be consistent with the occupational scope of work set forth in the collective bargaining agreement upon which the current prevailing wage rate for "Carpenter, BLD" is based.

9. Therefore, the Department's January 6, 2022 wage rate schedule for DeKalb County should be revised to include an explanation of the Carpenter's occupational scope of work as it relates to the erection and installation of racking systems and the affixing of the solar panels and modules to the racking systems erection as set forth in the Carpenters' CBA (Exhibit A).

WHEREFORE, for the reasons set forth above, the Petitioner, Mid-America Carpenters Regional Council petitions the Department to revise its January 6, 2022 publication for DeKalb County to include an explanation of the Carpenter's occupational scope of work as it relates to the erection and installation of racking systems and the affixing of the solar panels and modules to the racking systems as set for the in the Carpenters CBA, and if necessary to conduct a hearing on this petition pursuant to 820 ILCS § 130/9.

January 28, 2022

Respectfully submitted,

Mid-America Carpenters Regional Council

By: /s/ Terrance B. McGann
One of its attorneys

Terrance B. McGann
McGann, Ketterman, & Rioux
111 East Wacker Drive, Suite 2300
Chicago, IL 60601
(312) 251-9700

STATE OF ILLINOIS)
)
)
COUNTY OF COOK)

CERTIFICATE OF SERVICE


Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I Karen Lewis, 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 and Attachments in Case No. 2022-H-RP01-2337 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 Notice of Hearing or on the Certificate of Service, having caused each envelope to be served by U.S. mail certified mail return receipt requested and regular mail with postage prepaid at 100 W. Randolph Street, Chicago, Illinois on the 8 day of February, 2022 prior to 4:30 p.m.

Terrence McGann
McGann Ketterman & Rioux
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Yolanda Carrillo
General Counsel
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HAND DELIVERED:

Dana M. O'Leary
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Illinois Department of Labor