

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

IN THE MATTER OF:)
)
MARK F. O'DONNELL, as member of the)
SIGN PAINTERS LOCAL 830/PAINTERS DISTRICT)
COUNCIL NO. 14,)
)
)
PETITIONER(S),)
)
v.)
)
JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)

STATE FILE NO. 2019-H-PK08-2243

DATE OF NOTICE: September 28, 2018

CERT. MAIL/RETURN RECEIPT:

7017 2620 0001 0467 5594

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 Mark. F. O'Donnell, as member of the Sign Painters Local 830/Painters District Council No. 14 [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on August 15, 2018, 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: OCTOBER 9, 2018
TIME: 1:00 P.M.
PLACE: ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

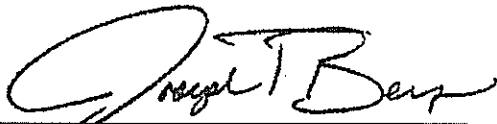
CLAUDIA MANLEY
ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

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". The signature is written in a cursive style with a large initial "J" and "B".

Joseph Beyer
Director of Labor

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

EXHIBIT A

IN THE MATTER OF:)
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MARK F. O'DONNELL, as a member of the)
SIGN PAINTERS LOCAL 830/PAINTERS)
DISTRICT COUNCIL NO. 14)
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Petitioners,)
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JOSEPH BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR and the ILLINOIS)
DEPARTMENT OF LABOR,)
)
Respondents.)

2019-H-PR08-2243

AUG 30 2018

SIGN PAINTERS LOCAL 830/PAINTERS DISTRICT COUNCIL NO. 14
OBJECTION AND REQUEST FOR SECTION 9 HEARING

Petitioner, MARK F. O'DONNELL, as a member of SIGN PAINTERS LOCAL 830 affiliated PAINTERS DISTRICT COUNCIL NO. 14 (known collectively as the "SIGN PAINTERS"), by and through their attorney, JOHN J. TOOMEY, of the law firm of ARNOLD AND KADJAN, LLP, seek to formally object to the Prevailing Wage determination published by the Illinois Department of Labor ("Department") on its website on August 15, 2018, as required by Illinois HB 3044 signed into law on June 16, 2017, and request a hearing on these objections pursuant to Section 9 of the Illinois Prevailing Wage Act (820 ILCS § 130/9) for the classification of Sign Painter for the following 20 counties: Bureau, Cook, DeKalb, DuPage, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, LaSalle, Livingston, McHenry, McLean, Putnam, Tazewell, Vermillion, Will and Woodford. In support, SIGN PAINTERS state further:

1. MARK F. O'DONNELL ("O'Donnell") is a member of the International Union of Painters and Allied Trades and its constituent, SIGN PAINTERS LOCAL 830/PAINTERS DISTRICT COUNCIL NO. 14.

2. The IUPAT is a national labor organization consisting of the members of Local Painters, Glaziers and Sign Painter Unions.

3. SIGN PAINTERS is an affiliate of the IUPAT and Painters District Council No. 14 which represents Sign Painters including the classification of Sign Painters in the 20 counties listed in Paragraph 5 below.

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, SIGN PAINTERS submitted Prevailing Wage Certification Forms to the Department in June, 2018. These materials listed the wage rates and fringe benefits paid to the following Prevailing Wage Classifications: Sign Painters in Bureau, Cook, DeKalb, DuPage, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, LaSalle, Livingston, McHenry, McLean Putnam, Tazewell, Vermillion, Will and Woodford Counties in 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 SIGN PAINTERS described above August 15 of each year effective back to the first date of June of the submission year as amended by HB 3044.

7. In 2018 SIGN PAINTERS obtained Prevailing Wage Certification Forms from the Department's official website and submitted the appropriate forms on June 28, 2018 for Sign Painters electronically as required by the Department of Labor with the July 1, 2017 - June 30, 2022 Collective Bargaining Agreement.

8. On August 15, 2018, the Department posted on its website the 2018 prevailing wage determinations to be effective September 1, 2018 for the Sign Painters classification for Bureau, Cook, DeKalb, DuPage, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, LaSalle, Livingston, McHenry, McLean Putnam, Tazewell, Vermillion, Will and Woodford Counties, Illinois. The rates should have been identical for all 20 counties. 19 counties are correct except for a 7¢ higher pension rate.

9. The Department historically has published the prevailing wage rates with an effective date of June 1 of that corresponding year. However, that effective date has been changed to September 1, 2018 by statute.

10. The information provided by SIGN PAINTERS for the 2018 prevailing wage rates for Sign Painters is applicable to the time period of June 1, 2018 through May 31, 2019.

11. The Department's August 15 published Cook County rates are incorrect: the submitted rate was \$38.20 per hour, not \$39.24 as published. The published rate omitted any rate for foreman, it should be \$43.25 as submitted. The Pension rate was 7¢ higher than the submitted rate in Cook in the 19 other counties.

12. The \$43.25 foreman rate is currently certified in the 19 other counties.

13. The Department's August 15 published rates for Bureau, DeKalb, DuPage, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, LaSalle, Livingston, McHenry, McLean, Putnam, Tazewell, Vermillion, Will and Woodford counties are correct except that Pension is 7¢ higher at \$3.25, it should be \$3.18.

14. The Department's published rate will result in the loss of wages for SIGN PAINTERS members as certain collective bargaining agreements between SIGN PAINTERS and various employers provide that SIGN PAINTERS members will be paid for the period according to the submitted wage and benefit package which is a higher rate than certified by the Department to be effective September 1, 2018.

14. The rates as submitted to the Department of Labor by SIGN PAINTERS compared to the certified rate as listed below for Cook County are:

Cook	Base Wage	Foreman Wage	MFOT	OSA	OSH	H/W	Pension	Vacation	Training	Total
Certified	\$39.24	\$0	1.5	1.5	2	\$2.60	\$3.25			\$45.09
Submitted	<u>\$38.20</u>	<u>\$43.25</u>	1.5	1.5	2	\$2.60	<u>\$3.18</u>			<u>\$43.98</u>
Difference	+\$1.04	\$43.25				Difference	-7¢		Difference	-\$1.11

15. The certified rates for Bureau, DeKalb, DuPage, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, LaSalle, Livingston, McHenry, McLean, Putnam, Tazewell, Vermillion, Will and Woodford Counties were submitted for Cook and should be identical to the August 15 certified Cook County rates. Thos 19 counties' rates are correct except for Pension \$3.18, not \$3.25, a 7¢.

WHEREFORE, for the reasons set forth above the Petitioner, MARK F. O'DONNELL, as a member of the SIGN PAINTERS LOCAL 830/PAINTERS DISTRICT COUNCIL NO. 14, objects to the Prevailing Wage determination posted on the Department's official website on August 15, 2018 and respectfully request a hearing on these objections pursuant to 820 ILCS § 130/9 as these are the rates in effect since June 1, 2018 and is the rate in effect on the effective date September 1, 2018.

As a remedy, Petitioner seeks that the certified prevailing rates published August 15, 2018 for the Sign Painters classification be corrected as follows:

1. **Cook County:** that the hourly rate be certified at \$38.20 per hour, not \$39.24 and that the foreman rate be certified as \$43.25 per hour as done in the 19 other counties.

2. The 2018 certified rates in Bureau, DeKalb, DuPage, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, LaSalle, Livingston, McHenry, McLean, Putnam, Tazewell, Vermillion, Will and Woodford Counties, Illinois are correct and are identical to the Cook County rates, except that Pension rates be corrected to \$3.18 per hour, 7¢ per hour lower than the \$3.25 certified rate.

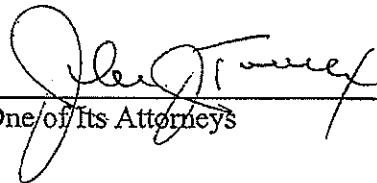
WHEREFORE, Petitioner, MARK F. O'DONNELL, as a member of the SIGN PAINTERS LOCAL 830/PAINTERS DISTRICT COUNCIL NO. 14, prays the Illinois Department of Labor August 15, 2018 Prevailing Rate certifications be corrected.

August 30, 2018

Respectfully submitted,

MARK F. O'DONNELL, as a member of the
SIGN PAINTERS LOCAL 830/PAINTERS
DISTRICT COUNCIL NO. 14

By:



One of Its Attorneys

John J. Toomey
ARNOLD AND KADJAN, LLP
35 E. Wacker Drive, Suite 600
Chicago, Illinois 60601
(312) 236-0415

CERTIFICATE OF SERVICE

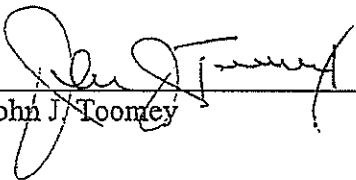
The Undersigned certifies that he caused copies of the foregoing Notice of Filing and Objections and Request for Section 9 Hearing to be served upon the following persons, via hand delivery, this 30th day of August, 2018.

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

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

and to the following by First Class U.S. Mail, postage prepaid to:

Illinois Department of Labor
900 S. Spring Street
Springfield, Illinois 62704



John J. Toomey

EXHIBIT 1

HB3044 Enrolled

LRB100 10787 JLS 21018 b

1 AN ACT concerning employment.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Prevailing Wage Act is amended by changing
5 Section 9 as follows:

6 (820 ILCS 130/9) (from Ch. 48, par. 39s-9)

7 Sec. 9. To effectuate the purpose and policy of this Act
8 each public body shall, during the month of June of each
9 calendar year, investigate and ascertain the prevailing rate of
10 wages as defined in this Act and publicly post or keep
11 available for inspection by any interested party in the main
12 office of such public body its determination of such prevailing
13 rate of wage and shall promptly file, no later than July 15 of
14 each year, a certified copy thereof in the office of the
15 Illinois Department of Labor.

16 The Department of Labor shall during the month of June of
17 each calendar year, investigate and ascertain the prevailing
18 rate of wages for each county in the State. If a public body
19 does not investigate and ascertain the prevailing rate of wages
20 during the month of June as required by the previous paragraph,
21 then the prevailing rate of wages for that public body shall be
22 the rate as determined by the Department under this paragraph
23 for the county in which such public body is located. The

HB3044 Enrolled

- 2 -

LRB100 10787 JLS 21018 b

1 Department shall publish on its official website a prevailing
2 wage schedule for each county in the State, no later than
3 August 15 of each year, based on the prevailing rate of wages
4 investigated and ascertained by the Department during the month
5 of June. Nothing prohibits the Department from publishing
6 prevailing wage rates more than once per year.

7 Where the Department of Labor ascertains the prevailing
8

STATE OF ILLINOIS- DEPARTMENT OF LABOR
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Chicago, Illinois 60601

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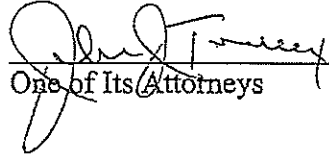
Illinois Department of Labor
900 S. Spring Street
Springfield, Illinois 62704

PLEASE TAKE NOTICE that on this 30th day of August, 2018, the undersigned filed the attached Objections and Request for Section 9 Hearing, a copy of which is herewith served upon you.

Respectfully submitted,

MARK F. O'DONNELL, as a member of the
SIGN PAINTERS LOCAL 830/PAINTERS
DISTRICT COUNCIL NO. 14

By:


One of Its Attorneys

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August 30, 2018

Respectfully submitted,

MARK F. O'DONNELL, as a member of the
SIGN PAINTERS LOCAL 830/PAINTERS
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By:



One of its Attorneys

John J. Toomey
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CERTIFICATE OF SERVICE

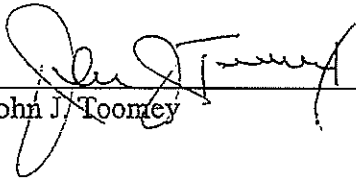
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John J. Toomey

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8 each public body shall, during the month of June of each
9 calendar year, investigate and ascertain the prevailing rate of
10 wages as defined in this Act and publicly post or keep
11 available for inspection by any interested party in the main
12 office of such public body its determination of such prevailing
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14 each year, a certified copy thereof in the office of the
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16 The Department of Labor shall during the month of June of
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18 rate of wages for each county in the State. If a public body
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HB3044 Enrolled

- 2 -

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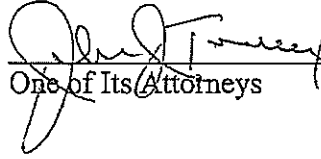
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Respectfully submitted,

MARK F. O'DONNELL, as a member of the
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One of Its Attorneys

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(312) 236-0415

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I C.V. Jackson, 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. 2019-H-PK08-2243 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 28th day of September, 2018 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/

Mark F. O'Donnell/Sign Painters Local 830/
Painters District Council No. 14
c/o John Toomey, Esq.
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General Counsel
Illinois Department of Labor
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Chicago, IL 60601

C.V. Jackson

Subscribed and Sworn to this 26th day of Sept., 2018

Laura Kotelman

Notary Public

