

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

IN THE MATTER OF:)
)
INTERNATIONAL UNION OF ELEVATOR CON-)
STRUCTORS, LOCAL 55, and ROD GILLES as)
member of INTERNATIONAL UNION OF)
ELEVATOR CONSTRUCTORS, LOCAL 55,)
)
PETITIONER(S),)
)
v.)
)
JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)

STATE FILE NO. 2019-H-PK09-2261

DATE OF NOTICE: September 28, 2018

CERT. MAIL/RETURN RECEIPT:

7017 2620 0001 0467 5778

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 International Union of Elevator Constructors, Local 55 and Rod Gilles as Member of International Union of Elevator Constructors, Local 55, [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:

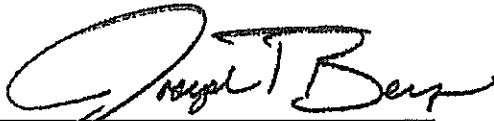
CLAUDIA MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

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

IN THE MATTER OF:)
)
INTERNATIONAL UNION OF ELEVATOR)
CONSTRUCTORS, LOCAL 55, and)
ROD GILLES as member of)
INTERNATIONAL UNION OF ELEVATOR)
CONSTRUCTORS, LOCAL 55,)
)
Petitioners,)
)
v.)
)
JOE BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR AND THE ILLINOIS)
DEPARTMENT OF LABOR)
)
Respondents.)

STATE FILE NO.:

2019-H-PR 09-2261

OBJECTION AND REQUEST FOR SECTION 9 HEARING

INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, LOCAL 55 and ROD GILLES as member of INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, LOCAL 55 (“Petitioners”), by and through their attorneys, Cavanagh & O’Hara LLP, seek to formally object to the prevailing wage determination published by the Illinois Department of Labor (“IDOL”) on August 15, 2018, and request a hearing on these objections pursuant to Section 9 of the Illinois Prevailing Wage Act (820 ILCS 130/9)(“IPWA”), and in support thereof states as follows:

1. INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, LOCAL 55 is a labor organization which represents employees who work on public works projects in various

counties throughout Illinois. ROD GILLES is a member of INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, LOCAL 55.

2. Section 9 of the IPWA states: “The Department of Labor shall... investigate and ascertain the prevailing rate of wages for each county in the State.” 820 ILCS 130/9.

3. The Petitioners submitted prevailing wage survey information to the IDOL in June 2018. The material submitted to the IDOL included wage rates and fringe benefits paid to the classification of Elevator Constructor.

4. The regulations to the IPWA define the “prevailing hourly rate of wages” as “the hourly cash wages plus fringe benefits ... most frequently (numerically occurring), in the county in which the public works is performed, to employees engaged in public works.” 56 Ill. Adm. Code 100.22.

5. Petitioners represent workers in Illinois and have negotiated collective bargaining agreements (“CBA’s”) with various employers and/or employer organizations. The wages and fringe benefits rates in the Petitioners’ CBA’s are the most frequently numerically occurring wages and fringe benefit amounts paid to employees engaged in public works in the geographic counties covered by Petitioners. Accordingly, the Petitioners’ CBA’s have historically been considered by the IDOL during its investigation of the prevailing wage rates for the classifications of Elevator Constructor on public projects.

6. On August 15, 2018, the IDOL published prevailing wage schedules on its website. The prevailing wage schedules contain numerous errors and omissions due to (i) errors in data/information submitted during the survey process, (ii) errors in IDOL’s investigation and review of the survey submissions and determination of the “prevailing” wage rate (that resulted in erroneously inflated and decreased wage and fringe rates), and (iii) errors related to minimizing

or, in many instances, wholly disregarding the Petitioners' submissions concerning the "prevailing" wage in the applicable geographic areas and the applicable classifications.

7. The errors related to the IDOL's minimization or disregard of the Petitioners' "prevailing" wage survey submissions stem from the systematically flawed methodology used by the IDOL. The IDOL's methodology is flawed because it did not result in the IDOL basing the posted prevailing wage rates on the most frequently numerically occurring wages and fringe benefits in each county or, if applicable, the geographic area of each county. Significantly, the end result is that many of the IDOL's posted "prevailing" wage rates are based on a *de minimis* or *insignificant* amount of reported hours rather than the most frequently occurring wages and fringe benefits paid to employees engaged in public works.

8. Petitioners have assembled a spreadsheet that identifies the known errors and omissions in the prevailing wage rates published by the IDOL on August 15, 2018. The spreadsheet is attached hereto and incorporated herein as **Exhibit A**.

9. Petitioners represent numerous individuals who perform work on public projects under the classifications defined by the IPWA and are paid at the posted prevailing wage. Therefore, the Petitioners' members are financially affected by the prevailing wage rates.

10. Therefore, Petitioners request an investigatory hearing to establish the correct prevailing wage rates for the classifications, counties, regions and types of work identified in **Exhibit A** (including but not limited to, correcting the prevailing wage rates that were published by the IDOL on August 15, 2018).

WHEREFORE, for the reasons set forth above, the Petitioners object to the prevailing wage determinations posted on the IDOL's official website on August 15, 2018, and respectfully request a hearing on these objections pursuant to 820 ILCS 130/9.

Dated: September 10, 2018

Respectfully submitted,

INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS, LOCAL
55 and ROD GILLES as member of
INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS, LOCAL
55 ,

By: 
Cavanagh & O'Hara LLP

John T. Long
2319 West Jefferson St.
Springfield, Illinois 62702
(217)544-1771 – Telephone
(217)544-9894 – Facsimile
johnlong@cavanagh-ohara.com

and

Additional Counsel
Cavanagh & O'Hara LLP
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jacobblickhan@cavanagh-ohara.com

CERTIFICATE OF SERVICE

The undersigned certifies that he caused copies of the foregoing Objection and Request for Section 9 Hearing to be served on the following persons, via UPS Next Day (a private delivery service), on this 10th day of September, 2018.

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

Respectfully submitted,

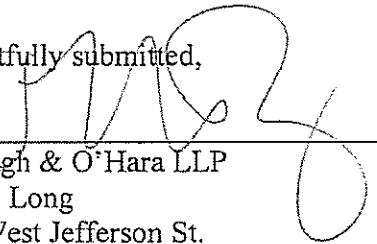
By: 
Cavanagh & O'Hara LLP
John T. Long
2319 West Jefferson St.
Springfield, Illinois 62702
(217)544-1771 – Telephone
(217)544-9894 – Facsimile
johnlong@cavanagh-ohara.com

Exhibit A

Champaign County - Elevator Constructor Classification

County	Trade Title	Region	Type	Class	Base Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Champaign	ELEVATOR CONSTRUCTOR	All	BLD		43.43	1.5	1.5	2	2	2	15.28	3.47	0.61	0
Corrections					44.78	50.38	2	2			15.43	3.58	0.61	

Coles County - Elevator Constructor Classification

County	Trade Title	Region	Type	Class	Base Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Coles	ELEVATOR CONSTRUCTOR	All	BLD		43.43	1.5	1.5	2	2	2	15.28	3.47	0.61	0
Corrections					44.78	50.38	2	2			15.43	3.58	0.61	

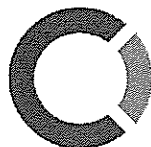
Grundy County - Elevator Constructor Classification

County	Trade Title	Region	Type	Class	Base Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Grundy	ELEVATOR CONSTRUCTOR	All	BLD		54.95	1.5	1.5	2	2	2	15.43	4.39	0.61	6.9
Corrections					44.78	50.38	2	2			15.43	3.58	0.61	0

Henderson County - Elevator Constructor Classification

County	Trade Title	Region	Type	Class	Base Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Henderson	ELEVATOR CONSTRUCTOR	All	BLD		43.43	1.5	1.5	2	2	2	15.28	3.47	0.61	0
Corrections					44.78	50.38	2	2			15.43	3.58	0.61	

Text: Red strikethrough text signifies incorrect rates/numbers
Green highlighted text boxes signify correct rates.



Cavanagh | O'Hara LLP
ATTORNEYS AT LAW

September 10, 2018

Sent Via UPS Next Day

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

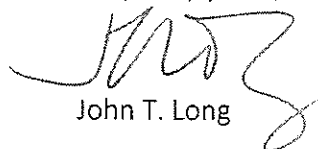
Illinois Department of Labor
c/o Joe Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, IL 60601

Re: Objections and Request for Section 9 Hearing

Dear Mr. Beyer,

This office represents International Union of Elevator Constructors Local 55 and Rod Gilles. Please find enclosed with this correspondence a Petition of Objections and Request for Section 9 Hearing pursuant to the Illinois Prevailing Wage Act (820 ILCS 130/9). As such, please consider the Petition enclosed hereto a written notice of objection (pursuant 820 ILCS 130/9) concerning the Illinois Department of Labor's determination of the 2018 Prevailing Wage Rates, posted August 15, 2018. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



John T. Long

cc: IUEC 55

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-PK09-2261 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/

Int'l. Union of Elevator Constructors, Local 55
c/o John T. Long, Esq.
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mailto:jtoomey100@hotmail.comjohnlong@cavanagh-ohara.com

Via messenger:

Joseph Beyer
Director of Labor
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Illinois Department of Labor
c/o Benno Weisberg
General Counsel
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

C. V. Jackson

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

Laura Kotelman
Notary Public

