

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

IN THE MATTER OF:)
)
PAINTERS DISTRICT COUNCIL NO. 58 and)
AFFILIATED LOCAL UNIONS #32, #58, #90,)
#124, #288, #363, #1165, #1168, #288, #363,)
#1165, AND GREGG SMITH AS MEMBER OF)
PAINTERS DISTRICT COUNCIL NO. 58)
)
)
PETITIONER(S),)
)
v.)
)
JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)

STATE FILE NO. 2019-H-PK08-2301

DATE OF NOTICE: September 28, 2018

CERT. MAIL/RETURN RECEIPT:

7017 2620 0001 0467 6805

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 Painters District Council No. 58 And Affiliated Local Unions #32, #58, #90, #124, 288, #363, #1165, #1168, #288, #363, #1165, And Gregg Smith As Member Of Painters District Council No. 58 [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:

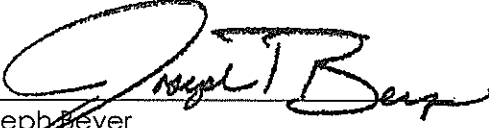
CLAUDIA MANLEY
ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

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.



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:)
)
PAINTERS DISTRICT COUNCIL NO. 58)
AND AFFILIATED LOCAL UNIONS #32,)
#58, #90, #124, #288, #363, #1165, #1168)
#288, #363, #1165, #1168, and GREGG)
SMITH as member of PAINTERS)
DISTRICT COUNCIL NO. 58)
)
Petitioners,)
)
)
JOE BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR AND THE ILLINOIS)
DEPARTMENT OF LABOR)
)
)
Respondents.)

EXHIBIT A

STATE FILE NO.:

2019-A-PK09-2301

OBJECTION AND REQUEST FOR SECTION 9 HEARING

Petitioners, Painters District Council #58 and affiliated Local Unions #32, #58, #90, #124, #288, #363, #1165, #1168 and Gregg Smith as a member of Painters District Council No. 58 (“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. Petitioners are affiliated labor organizations which represents employees who work on public works projects in various counties throughout Illinois. Gregg Smith is a member of Painters District Council No. 58.

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 classifications of **Painter/Highway, Painter/Building, Painter/All, Painter Over 30FT/Building, Painters Over 30 FT/All, Painter/Power Equipment/All, Painter/Power Equipment/Building, Painter/Power Equipment/Highway, Glazier/Building** and all applicable related classifications.

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 **Painter/Highway, Painter/Building, Painter/All, Painter Over 30FT/Building, Painters Over 30 FT/All, Painter/Power Equipment/All, Painter/Power Equipment/Building, Painter/Power Equipment/Highway, Glazier/Building** 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 12, 2018

Respectfully submitted,
Painters District Council #58 and affiliated
Local Unions #32, #58, #90, #124, #288,
#363, #1165, #1168, and Gregg Smith as a
member of Painters District Council No. 58

By: 
Cavanagh & O'Hara LLP
Britt W. Sowle
101 West Vandalia Street, Suite 245
Edwardsville, Illinois 62025
(618)692-5250 – Telephone
(618)692-5254 – Facsimile
britt@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 12th 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

Britt W. Sowle

101 West Vandalia Street, Suite 245

Edwardsville, Illinois 62025

(618)692-5250 – Telephone

(618)692-5254 – Facsimile

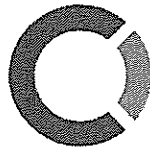
britt@cavanagh-ohara.com

Exhibit A

County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT S	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Adams	GLAZIER	All	BLD	None	\$35.91	None	Correction	1.5	1.5	2	2	Correction	None	None	Correction
Adams	PAINTER	All	ALL	None	\$31.13	None	Correction	1.5	1.5	2	2	None	\$5.90	None	Correction
Alexander	PAINTER	All	HWY	None	\$33.90	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.63	Correction
Cass	PAINTER	All	ALL	None	\$31.13	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$10.63	Correction
Champaign	GLAZIER	All	BLD	None	\$35.91	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Champaign	PAINTER	All	ALL	None	\$35.29	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Champaign	PAINTER SIGNS	All	ALL	None	\$35.29	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Clinton	PAINTER PWR EQMT	All	HWY	None	\$33.45	\$39.00	Correction	1.5	1.5	2	2	Correction	\$10.55	\$5.90	Correction
Colts	GLAZIER	All	BLD	None	\$35.91	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Crawford	PAINTER	All	ALL	None	\$47.82	\$27.30	Correction	1.5	1.5	2	2	Correction	\$7.97	\$14.43	Correction
Cumberland	GLAZIER	All	BLD	None	\$35.01	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Cumberland	PAINTER	All	ALL	None	\$35.29	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Effingham	GLAZIER	All	BLD	None	\$35.91	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Gallatin	PAINTER	All	HWY	None	\$33.56	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$6.25	Correction
Hardin	PAINTER	All	HWY	None	\$33.56	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$6.25	Correction
Jefferson	PAINTER	All	ALL	None	\$25.00	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$9.45	Correction
Jersey	PAINTER	All	BLD	None	\$31.25	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$10.42	Correction
Johnson	PAINTER	All	HWY	None	\$33.56	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$6.25	Correction
Logan	GLAZIER	All	BLD	None	\$35.91	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Macon	GLAZIER	All	BLD	None	\$35.91	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Macon	PAINTER OVER 30 FT	All	ALL	None	\$32.00	\$30.00	Correction	1.5	1.5	2	2	Correction	\$6.30	\$8.20	Correction
Macon	PAINTER	All	ALL	None	\$31.25	\$29.00	Correction	1.5	1.5	2	2	Correction	\$6.30	\$12.30	Correction
Macoupin	GLAZIER	All	BLD	None	\$35.91	None	Correction	1.5	1.5	2	2	Correction	\$6.25	\$10.20	Correction
Madison	PAINTER	All	BLD	None	\$31.25	\$31.25	Correction	1.5	1.5	2	2	Correction	\$5.90	\$10.52	Correction
Marton	PAINTER	All	ALL	None	\$25.00	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$9.46	Correction
Menard	PAINTER	All	ALL	None	\$31.13	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$10.63	Correction
Monroe	PAINTER	All	BLD	None	\$31.25	None	Correction	1.5	1.5	2	2	Correction	\$5.90	\$10.52	Correction

Exhibit A

Morgan	GLAZIER	All	BLD	None	\$95.91	None	Correction	\$37.91	1.5	1.5	2	2	\$6.25	\$10.20	\$0.00	\$0.68	Correction	\$0.00			
Morgan	PAINTER	All	All	None	\$31.13	None	Correction	\$32.63	1.5	1.5	2	2	\$5.90	\$10.63	\$0.00	\$1.16	Correction	\$0.65			
Perry	GLAZIER	All	BLD	None	\$95.91	None	Correction	\$37.91	1.5	1.5	2	2	\$6.25	\$10.20	\$0.00	\$0.68	Correction	\$0.00			
Pope	PAINTER	All	HWY	None	\$33.56	None	Correction	\$35.06	1.5	1.5	2	2	\$5.90	\$6.25	\$10.63	\$9.43	\$0.00	\$1.16	Correction	\$0.55	
Plant	PAINTER	All	All	None	\$29.00	None	Correction	\$30.50	1.5	1.5	2	2	None	\$6.30	None	\$12.30	\$0.00	\$0.00	Correction	\$0.70	
Pulaski	PAINTER	All	HWY	None	\$33.56	None	Correction	\$35.06	1.5	1.5	2	2	\$5.90	\$6.25	\$10.63	\$6.43	\$0.00	\$1.16	Correction	\$0.55	
Randolph	PAINTER	All	BLD	None	\$29.36	None	Correction	\$30.76	1.5	1.5	2	2	\$6.25	\$9.43	None	\$0.00	\$0.55	Correction	\$0.00		
Saline	PAINTER	All	HWY	None	\$33.56	None	Correction	\$35.06	1.5	1.5	2	2	\$5.90	\$6.25	\$10.63	\$9.43	\$0.00	\$1.16	Correction	\$0.55	
Sangamon	GLAZIER	All	BLD	None	\$95.91	None	Correction	\$37.91	1.5	1.5	2	2	\$6.25	\$10.20	\$0.00	\$0.68	Correction	\$0.00			
Scott	PAINTER POWER EQUIP	All	All	None	\$32.13	\$39.60	Correction	\$33.63	1.5	1.5	2	2	\$10.55	\$5.90	\$8.20	\$10.63	\$0.00	\$1.25	Correction	\$0.55	
Scott	PAINTER	All	All	None	\$31.13	None	Correction	\$32.63	1.5	1.5	2	2	\$5.90	\$10.63	None	\$0.00	\$1.16	Correction	\$0.65		
St. Clair	GLAZIER	All	BLD	None	\$33.05	\$35.91	Correction	\$37.91	2	1.5	2	2	\$5.81	\$6.25	\$14.62	\$10.20	\$3.92	\$0.00	\$0.85	Correction	\$0.68
St. Clair	PAINTER	All	BLD	None	\$31.25	None	Correction	\$32.75	1.5	1.5	1.5	2	2	None	\$5.50	None	\$10.52	\$0.00	None	Correction	\$0.70
Union	PAINTER	All	HWY	None	\$33.56	None	Correction	\$35.06	1.5	1.5	2	2	\$5.90	\$6.25	\$10.63	\$9.43	\$0.00	\$1.16	Correction	\$0.55	
Vernon	PAINTER	All	All	None	\$35.29	None	Correction	\$36.79	1.5	1.5	2	2	\$5.90	\$8.57	\$10.63	\$5.33	\$0.00	\$1.16	Correction	\$0.60	
Williamson	PAINTER	All	HWY	None	\$33.56	None	Correction	\$35.06	1.5	1.5	2	2	\$5.90	\$6.25	\$10.63	\$9.43	\$0.00	\$1.16	Correction	\$0.55	



Cavanagh | O'Hara LLP

ATTORNEYS AT LAW

September 12, 2018

Sent Via UPS Next Day

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 Petitioners, Painters District Council #58 and affiliated Local Unions #32, #58, #90, #124, #288, #363, #1165, #1168 and Gregg Smith as a member of Painters District Council No. 58.

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. Also enclosed is a self-addressed and stamped return envelope to allow the Department to mail a file stamped copy back to our office.

Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

Britt W. Sowle, Legal Counsel

cc: Painters District Council #58

CERTIFICATE OF SERVICE

Under penalties as provided by law, including pursuant to Section 1-109 of the Code of Civil Procedure, I C.Y. 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-PK08-2301 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/

Gregg Smith / Painters District Council No. 58
And Affiliated Local Unions #32, #58, #90, #124,
#288, #363, #1165, #1168, #288, #363, #1165
c/o Britt Sowle, Esq.
Cavanagh & O'Hara LLP
101 West Vandalia Street, Suite 245
Edwardsville, IL 62025
britt@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.Y. Jackson

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

Laura Kotelman
Notary Public

