

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

IN THE MATTER OF:)
)
UNITED ASSOCIATION OF PLUMBERS AND)
PIPEFITTERS, LOCAL UNION NO. 137, AND)
AARON GURNSEY as member of UNITED)
ASSOCIATION OF PLUMBERS AND PIPEFITTERS,)
LOCAL UNION NO. 138,)
)
PETITIONER(S),)
)
v.)
)
JOSEPH BEYER, DIRECTOR OF THE)
ILLINOIS DEPARTMENT OF LABOR, and)
THE ILLINOIS DEPARTMENT OF LABOR,)
)
RESPONDENTS.)
)

STATE FILE NO. 2019-H-PK09-2257

DATE OF NOTICE: September 28, 2018

CERT. MAIL/RETURN RECEIPT:

7017 2620 0001 0467 5730

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 United Association of Plumbers and Pipefitters, Local Union No. 137, and Aaron Gurnsey as member of United Association of Plumbers and Pipefitters, Local Union No. 137, [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:

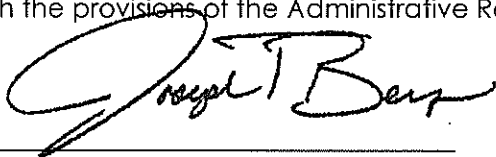
CLAUDIA MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

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

IN THE MATTER OF:)
)
UNITED ASSOCIATION OF)
PLUMBERS AND PIPEFITTERS)
LOCAL UNION NO. 137)
AND AARON GURNSEY)
AS MEMBER OF UNITED)
ASSOCIATION OF PLUMBERS)
AND PIPEFITTERS LOCAL)
UNION NO. 137)
)
Petitioners,)
)
v.)
)
JOE BEYER, DIRECTOR OF)
THE ILLINOIS DEPARTMENT OF)
LABOR AND THE ILLINOIS)
DEPARTMENT OF LABOR)
)
Respondents.)

EXHIBIT A

STATE FILE NO.:

2019-H-PR 09-2257

OBJECTION AND REQUEST FOR SECTION 9 HEARING

United Association of Plumbers and Pipefitters Local Union No. 137 and Aaron Gurnsey as member of United Association of Plumbers and Pipefitters Local Union No. 137 (“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. United Association of Plumbers and Pipefitters Local Union No. 137 is a labor organization which represents employees who work on public works projects in various counties

throughout Illinois. Aaron Gurnsey is a member of United Association of Plumbers and Pipefitters Local Union No. 137.

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 Plumbers (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 Plumbers 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**.

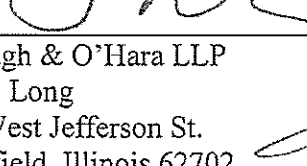
9. Petitioners represent numerous individuals who perform work on public projects under the classifications defined by the IPWA and are paid at the posted prevailing wage. Therefore, the Petitioners' members are financially affected by the prevailing wage rates.

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 7, 2018

Respectfully submitted,
United Association of Plumbers and
Pipefitters Local Union No. 137 and Aaron
Gurnsey as Member of United Association
of Plumbers and Pipefitters Local Union No.
137

By: 
Cavanagh & O'Hara LLP
John T. Long
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(217)544-1771 – Telephone
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johnlong@cavanagh-ohara.com

and

Additional Counsel
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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 7th 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: _____

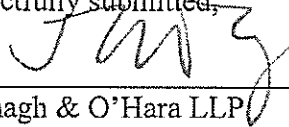

Cavanagh & O'Hara LLP
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johnlong@cavanagh-ohara.com

Exhibit A

Cass County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted Rate	Cass	PLUMBER	All	BLD		44.84		1.5	1.5	2	2	7.4	40.46	0	4.04	0
Corrections						42.35						7.25	10.51		1.11	

Christian County (East and West Zones) - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Christian	PLUMBER	E	BLD		37.46		1.5	1.5	2	2	7.4	40.46	0	4.04	0
Corrections	Christian					37.97						7.25	10.51	0	1.11	
Posted	Christian	PLUMBER	W	BLD		44.84		1.5	1.5	2	2	7.4	40.46	0	4.04	0
Corrections						42.35						7.25	10.51		1.11	

Dewitt County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Dewitt	PLUMBER	All	BLD		37.46		1.5	1.5	4.5	2	7.4	40.46	0	4.04	0
Corrections						37.97				2		7.25	10.51		1.11	

Logan County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Logan	PLUMBER	All	BLD		44.84		1.5	1.5	2	2	7.4	40.46	0	4.04	0
Corrections						42.35						7.25	10.51		1.11	

Macon County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Macon	PLUMBER	All	BLD		37.97		1.5	1.5	2	2	7.25	10.51	0	3.29	0
Corrections															1.11	

Menard County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Menard	PLUMBER	All	BLD		41.84		1.5	1.5	2	2	7.4	40.46	0	4.04	0
Corrections						42.35						7.25	10.51		1.11	

Montgomery County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Montgomery	PLUMBER	NE	BLD		44.84		1.5	1.5	4.5	4.5	0	0	0	10.47	
Corrections						42.35				2	2	7.25	10.51		1.11	0

Platt County (West Zone) - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Platt	PLUMBER	W	BLD		37.46		1.5	1.5	4.5	4.5	2.37	0	3.06	0	45.04

Corrections						37.97	41.97			2	2	7.25	10.51	0	1.11	0
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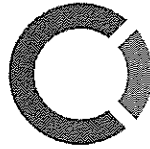
Sangamon County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Sangamon	PLUMBER	All	BLD		42.34	46.34	1.5	1.5	2	2	7.25	10.51	0	1.01	0
Corrections						42.35	46.35								1.11	

Scott County - Plumber Classification

	County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Hol	H/W	Pension	Vacation	Training	Other Fringe Benefit
Posted	Scott	PLUMBER	All	BLD		41.84	46.34	1.5	1.5	2	2	7.4	10.46	0	1.01	0
Corrections						42.35	46.35					7.25	10.51		1.11	

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



Cavanagh | O'Hara LLP
ATTORNEYS AT LAW

September 7, 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

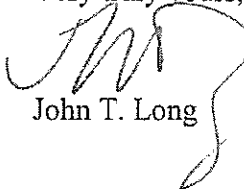
Illinois Department of Labor
c/o Joe Beyer, Director
160 N. LaSalle Street, Suite C-1300
Chicago, IL 60601

Re: Objections and Request for Section 9 Hearing

Dear Mr. Beyer,

This office represents United Association of Plumbers and Pipefitters Local Union No. 137 and Aaron Gurnsey. 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: United Association of Plumbers
and Pipefitters Local Union No. 137

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-PK09-2257 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/

Plumbers & Pipefitters, Local 137
c/o John T. Long, Esq.
Cavanagh & O'Hara LLP
2319 W. Jefferson St.
Springfield, IL 62702
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

