

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

IN THE MATTER OF:	)	
	)	
SHEET METAL WORKERS LOCAL UNION	)	
NO. 265	)	
	)	
	)	
PETITIONER(S),	)	STATE FILE NO. 2019-H-PK09-2293
	)	
v.	)	DATE OF NOTICE: <u>10/1/2018</u>
	)	
JOSEPH BEYER, DIRECTOR OF THE	)	CERT. MAIL/RETURN RECEIPT:
ILLINOIS DEPARTMENT OF LABOR, and	)	<u>7017 2620 0001 0467 5938</u>
THE ILLINOIS DEPARTMENT OF LABOR,	)	
	)	
RESPONDENTS.	)	
	)	

**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 Sheet Metal Workers Local Union No. 265, [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 24, 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

September 14, 2018

## EXHIBIT A

**Patrick N. Ryan**  
Admitted in IL and WI

Direct Dial 312-216-2573  
pryan@baumsigman.com

**Via Hand Delivery and Email:** [Joe.Beyer@illinois.gov](mailto:Joe.Beyer@illinois.gov)

Director Joe Beyer  
Illinois Dept. of Labor  
160 N. LaSalle Street  
13<sup>th</sup> Floor  
Chicago, IL 60601

2019-H-PK09-2293

RE: Article 9 Challenge to Department's Prevailing Wage Determination  
Local Union No. 265 SMART of the International Association of Sheet Metal,  
Air, Rail and Transportation Workers  
Our File No. 28225

Dear Director Beyer:

We are the attorneys for Local Union No. 265 SMART of the International Association of Sheet Metal, Air, Rail and Transportation Workers ("Local 265" or "Union"). This letter is sent pursuant to the Illinois Prevailing Wage Act, 820 ILCS 130/9, as the written notice required to challenge various Prevailing Wage Determination posted by the Illinois Department of Labor on August 15, 2018.

It appears that the Department has significantly changed its methodology for determining and posting the prevailing wage rates without advanced notice and the opportunity for comment by interested parties. The Department previously considered collective bargaining agreements covering a given County as a reliable indicator of the prevailing wage in that County. Under the new methodology, the Department fails to credit the surveys and supporting documents (i.e. the collective bargaining agreements and rate sheets) submitted by the Union for Counties and/or classifications in which any employer also completed a survey with rates that differ from those reported by the Union. The Department has offered no explanation for its change in methodology. The Department's failure to give any credit to the Union's survey and supporting document in such situations is arbitrary and capricious. This is particularly troubling where an employer reported a minimal number of days worked in the jurisdiction, in contrast to the numerous employers who are paying wages and benefits on public works projects consistent with the rates set forth in the applicable collective bargaining agreement.

The Union further objects to the Department accepting what employers reported without supporting documentation. Certified payrolls and other payroll records should have been obtained from employers to verify their reporting. The Union supported its survey responses with the collective bargaining agreements and applicable wage rate sheets. Every employer signed to a collective



Director Joe Beyer  
September 14, 2018  
Page 2

bargaining agreement with the Union is paying the contractual wages and benefits on all prevailing wage projects. To the extent an employer claims to have paid less than those rates, they should be required to substantiate their claims before the Department credits such responses.

With the above in mind, the Union is specifically challenging and objects to the wage and fringe benefit rates highlighted on the attached spreadsheets for the "Sheetmetal Worker" title in the Counties of DuPage, Grundy, Iroquois, Kane, Kankakee, Kendall, Livingston, McHenry and Will. The spreadsheet states the rates posted by the Department, and highlights where the Union disputes the posted rates. It is the Union's position that the prevailing rates are those set forth in its applicable collective bargaining agreement (rate sheet effective June 1, 2018 also attached), which are the rates paid by all Local 265 signatory employers on public works project in these Counties since June 1, 2018.

In light of the above, unless the Department determines that it has improperly posted the prevailing wages referenced above and issues a prompt correction, the Union hereby requests that the Department set a date for hearing on its objections. At such hearing, the Union will present further evidence of the wages and benefits paid by its signatory employers on prevailing wage projects in these Counties during the relevant time frame.

If you have any questions or would like to discuss this matter further prior to any hearing, please feel free to contact me.

Very truly yours,

**BAUM SIGMAN AUERBACH & NEUMAN, LTD.**

Patrick N. Ryan

PNR/kp

Enclosures

cc: John Daniel (via email, w/enclosures)  
Benno Weisberg (via e-mail, w/enclosures: [Benno.Weisberg@illinois.gov](mailto:Benno.Weisberg@illinois.gov))  
Paul Kersey (via e-mail, w/enclosures: [Paul.Kersey@illinois.gov](mailto:Paul.Kersey@illinois.gov))



**INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR,  
RAIL AND TRANSPORTATION WORKERS LOCAL UNION No. 265**

205 ALEXANDRA WAY, CAROL STREAM, IL 60188-2080

Phone (830) 668-0110; Fax (830) 688-0932

E-mail: smart265@smart265.org

ROBERT BAIER,  
Fin. Sec'y-Treas./Bus. Rep.

BRIAN McSHERRY,  
Recording Secretary

JOHN DANIEL,  
President/Business Manager

Business Representatives:  
JOHN HOPP  
DON MORAN  
KEVIN GALASS

The following Wage Rates and Fringe Benefit contributions per hour, and Payroll Deductions shall be in effect from June 1, 2018 through November 30, 2018

JOURNEYMAN (A & C MEMBERS)										BASE WAGE	\$48.02
<b>DEDUCTIONS:</b>		Organizing Fund	Equality Fund	Savings Fund	IA Working Assessment	LU Working Assessment	<b>TOTAL DEDUCTIONS</b>				
		\$0.50	\$0.05	\$0.50	\$0.17	2.25% of gross wages	\$1.22 plus LU Working Assessment				
<b>FRINGE BENEFITS:</b>											
Education Fund					Industry Fund						
Local Pension	Supp. Retirement Savings Plan	National Pension	Health & Welfare	Local	National	LMCC	SMACNA Greater Chicago	SMACNA	<b>TOTAL BENEFITS:</b>		
\$ 7.39	\$ 7.99	\$ 0.87	\$ 10.75	\$ 0.85	\$ 0.18	\$ 0.89	\$ 2.25	\$ 2.25	\$31.47		
<b>Total Package (Base Wage + Fringe Benefits):</b>										<b>\$79.49</b>	

JOURNEYMAN (B MEMBERS)										BASE WAGE	\$46.50
<b>DEDUCTIONS:</b>		Organizing Fund	Equality Fund	Savings Fund	IA Working Assessment	LU Working Assessment	<b>TOTAL DEDUCTIONS</b>				
		\$0.50	\$0.05	\$0.50	\$0.17	2.25% of gross wages	\$1.22 plus LU Working Assessment				
<b>FRINGE BENEFITS:</b>											
Education Fund					Industry Fund						
NO Local Pension	Supp. Retirement Savings Plan	National Pension	Health & Welfare	Local	National	LMCC	SMACNA Greater Chicago	SMACNA	<b>TOTAL BENEFITS:</b>		
		\$ 10.69	\$ 10.75	\$ 0.85	\$ 0.18	\$ 0.89	\$ 2.25	\$ 2.25	\$33.90		
<b>Total Package (Base Wage + Fringe Benefits):</b>										<b>\$79.49</b>	

JOHN DANIEL  
President/Business Manager  
SMART, Local 265

JOHN D'ANGELO, Chairman  
SMACNA Greater Chicago  
Bargaining Committee

County	Trade Title	Region	Type	Class	Base Wage	Foreman Wage	OT M-F	OT Sa	OT Su	OT Ho	H/W	Pension	Vacation	Training	Other Fringe Benefit
DuPage	SHEETMETAL WORKER	All	BLD		46.77	49.11	1.5	1.5	2	2	10.75	15.55	0	1.03	0 Posted Rates
					48.02	50.42						16.99			3.5 Correct Rates
Grundy	SHEETMETAL WORKER	All	BLD		48.02		1.5	1.5	2	2	10.75	16.19	0	2.06	0 Posted Rates
						50.42								1.03	3.5 Correct Rates
Iroquois	SHEETMETAL WORKER	All	BLD		45.77		1.5	1.5	1.5	1.5	2.17	0	1.06	0	22.34 Posted Rates
					48.02	50.42	2	2	2	2	10.75	16.19	0	1.03	3.5 Correct Rates
Kane	SHEETMETAL WORKER	All	BLD		48.02	51.02	1.5	1.5	2	2	10.75	16.19	0	1.03	0 Posted Rates
						50.42									3.5 Correct Rates
Kankakee	SHEETMETAL WORKER	All	BLD		48.02	50.42	1.5	1.5	2	2	10.75	16.19	0	1.03	0 Posted Rates
															3.5 Correct Rates
Kendall	SHEETMETAL WORKER	All	BLD		48.02	50.42	1.5	1.5	2	2	10.75	16.19	0	1.03	0 Posted Rates
															3.5 Correct Rates
Livingston	SHEETMETAL WORKER	All	BLD		48.02		1.5	1.5	2	2	10.75	16.19	0	1.03	0 Posted Rates
						50.42									3.5 Correct Rates
McHenry	SHEETMETAL WORKER	All	BLD		48.02	50.36	1.5	1.5	2	2	10.75	16.19	0	1.03	3.5 Posted Rates
						50.42									Correct Rates
Will	SHEETMETAL WORKER	All	BLD		48.02	50.42	1.5	1.5	2	2	10.75	20.87	0	1.03	0 Posted Rates
												16.19			3.5 Correct Rates

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-PK09-2293 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 1<sup>rst</sup> day of October, 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/](http://www.state.il.us/agency/idol/)

Sheet Metal Workers Local Union No. 265  
c/o Patrick N. Ryan, Esq.  
Baum Sigman Auerbach & Newman, Ltd.  
200 W. Adams Street, Suite 2200  
Chicago, IL 60606  
[pryan@baumsigman.com](mailto:pryan@baumsigman.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 1 day of October, 2018

Rosemary Echeverry-Vazquez  
Notary Public

