

MARBA MATTERS

GRIEVANCES AND ARBITRATIONSⁱ

Mid-America Regional Council of Carpenters Arbitrations

MARBA received one (1) demand for arbitration in September alleging a violation of Section 20.9 of the agreement (project information).

Laborers Joint Grievance Committee

The Laborers Joint Grievance Committee did not meet in September. The next JGC is scheduled to be held on October 31, 2023, at the Burr Ridge office of the Laborers, provided there are any cases set to go forward.

Operating Engineers Joint Grievance Committee

The Operating Engineers Joint Grievance Committee did not meet in September. The next regularly scheduled JGC will be on October 4, 2023, at the Operating Engineers office in Countryside. At this point, there are three (3) grievances on the docket.

Teamsters Joint Grievance Committee

The Teamsters Joint Grievance Committee did not meet in September. The next JGC hearing will be held on October 12, 2023, at the MARBA offices beginning at 9 a.m. There is one (1) case on the docket involving a termination.

COLLECTIVE BARGAINING/LABOR ISSUES

MARBA to Host Full Day Collective Bargaining Seminar

MARBA is pleased to announce it will be hosting a full day collective bargaining seminar covering all aspects of collective bargaining. Speakers include Rick Samson (Ogletree Deakins), Christina Wernick (Laner Muchin), and Aaron Janik (MARBA). The seminar will be held at Maggiano's in Oakbrook on Wednesday, November 15, 2023. On-site registration and a causal breakfast will begin at 7:30 a.m. After some brief opening remarks, the seminar will begin at 8:30. The seminar will conclude at 3:45-4:00 p.m., after which a small cocktail reception will be held. The topics covered, to name a few, will include preparation prior to bargaining, setting priorities, and multi-employer bargaining issues. There will also be time for a Q & A with the presenters. There is no cost to attend this seminar, however, seating is limited, so advance registration is required. To register please contact Aaron Janik at ajanik@marba.org.

INDUSTRY NEWS

Illinois Department of Labor to Host Webinar Regarding Paid Leave for All Workers Act

The Illinois Department of Labor is hosting a series of webinars (4) regarding the new Paid Leave for All Workers Act. The Act, which takes effect on January 1, 2024, exempts construction employees covered under a bona fide collective bargaining agreement. However, those not covered under a bona fide CBA are subject to the Act's requirements (with a few exceptions). To find more information about the Act or to register for the IDOL webinars please click [here](#).

STATE OF THE ECONOMY

Economic Indicators

Unemployment Rate	August 2023 U.S. 3.8% (July 3.5%), Illinois 4.1% (45 th)
Labor Participation Rate	August 62.8%, July 62.6%, June 62.6%
CPI All Urban Consumers	August 2023 over August 2023 = 3.67%
CPI Chicago All Items	August 2023 over August 2023 = 2.34%
CPI Midwest All Items	August 2023 over August 2023 = 3.35%
Union Membership	2022 = 10.1% (Private Sector 6.0%) 2021 = 10.3% (Private Sector 6.1%) 2020 = 10.8% (Private Sector 6.3%)
Rate of Unionized Construction Workers	11.7% (2022), 12.6% (2021) 12.7% (2020), 13.6% (2019)
30 Year Fixed Mortgage	As of 9-28-23 7.31%, up 0.61% over the prior year. Annual Average 5.34% (2022), 2.96% (2021), 3.11% (2020)
15 Year Fixed Mortgage	As of 9-28-23 6.72%, up 0.76% over the prior year. Annual Average 4.58% (2022), 2.27% (2021), 2.61% (2020)
Brent Crude Oil Price	\$93.77 per barrel (as of September 28, 2023) \$145.61 per barrel all time high July 2008 \$2.23 per barrel all time low May 1970
Privately Owned New Housing Building Permits	6.9% above revised July rate 2.7% below August 2022 rate
Privately Owned New Housing Starts	11.3% below revised July rate (+/-8.3%) 14.8% below August 2022 rate (+/-9.0%)

GDP	Q2 2023 (3 rd) +2.1% Q2 2023 (2 nd) +2.1% Q1 2023 (2 nd) +2.0%
DJIA	33,730.79 as of September 28, 2023 (12:00 p.m.) 34,721.91 as of August 31, 2023 (close) 35,559.53 as of July 31, 2023 (close)

JANIK'S J.D. – AN UPDATE ON LABOR/CONSTRUCTION LEGAL ISSUES
AARON JANIK- EXECUTIVE DIRECTOR MARBA

ALJ Issues Decision Requiring Employer to Bargain with Union Under Cemex Decision

In August the NLRB issued its decision in *Cemex Construction Materials Pacific LLC* which set forth a new standard for Employers when it comes to dealing with union representation/elections. Under the *Cemex* standard, should a Union demand to be voluntarily recognized after a showing of majority support, the Employer has two options which must be exercised within a two-week time frame. The first option is to recognize the Union and begin bargaining or to file an RM petition and go through the election process conducted by the NLRB. However, if an Employer chooses to file the RM petition and subsequently commits an unfair labor practice (ULP), the Board may require the Employer to recognize the Union as the employee's representative and bargain with them even if the Employer prevailed at the election.

Last week an ALJ out of Massachusetts held that a cannabis company would be required to bargain with the United Food and Commercial Workers union (UFCW) even though the Union did not prevail at the election. The company had 28 employees at one of its retail stores. Twenty of those employees signed a letter, which was presented to the company, asking to be represented by the UFCW. This occurred in January 2022. Beginning in February, and over the next six (6) months, the Union filed several ULP charges against the company. The Board conducted an election in April 2022. The ballots were counted in May 2022. After tallying the ballots, it was determined that the Union did not prevail.

During the period prior to the election (the "critical period"), the company fired two of the more fervent union supporters/organizers. It also held captive audience meetings in which it required employees to attend and listen to the company's perspective on the union organizing activity. During those meetings, certain statements were made regarding what potentially could occur if the Union were to win the election. Also, during the critical period, the company began enforcing policies it previously chose not to enforce by issuing discipline to employees for minor infractions.

As a result of the company's conduct, the ALJ issued an order requiring the Employer to recognize the Union and to bargain with them retroactively to January 2022 (when the demand letter asking for the UFCW to represent them was presented to the company). In ordering the company to recognize the Union, the ALJ applied the standard set forth under the recently issued *Cemex* decision. The ALJ found, in applying the new framework, that "a remedial bargaining order is appropriate when: (1) the employer refuses the union's request to bargain; (2) at a time when the union had in fact been designated as representative by a majority of employees; (3) in an appropriate unit; and then (4) the employer commits unfair labor practices requiring the election to be set aside." In addition to requiring the company to bargain with the Union, it was also ordered to reinstate the terminated employees and to make them whole for any losses they suffered. This decision should serve as a warning for employers, and they should

proceed with caution during the critical period. The case can be found by clicking [here](#).

UPCOMING SEMINARS/EVENTS

CAGC MEAT RAFFLE

JOIN THE CAGC FOR ITS ANNUAL MEAT RAFFLE!!!

DATE: OCTOBER 1, 2023
 TIME: 11:00 A.M. TO 4:00 P.M.
 LOCATION: H.O.M.E. BAR
 1227 RAND ROAD
 ARLINGTON HEIGHTS, IL 60004
 COST: \$45.00 PER PERSON (DOES NOT INCLUDE RAFFLE TICKETS OR BEVERAGES)
 CONTACT: STACEY KELLY @ 773-444-0465 OR REGISTER BY CLICKING [HERE](#).

CALENDAR

OCTOBER 2	12:15 P.M.	CBA CONSTRUCTION LAW WEBINAR (ONLINE)
OCTOBER 3	2:00 P.M.	IDOL PAID LEAVE FOR ALL WORKERS WEBINAR (ONLINE)
OCTOBER 4	8:30 A.M.	OPERATING ENGINEERS JGC (COUNTRYSIDE)
OCTOBER 6	6:00 P.M.	CARPENTERS APPRENTICESHIP GRADUATION DINNER (LOMBARD)
OCTOBER 12	9:00 A.M.	TEAMSTERS JGC (MARBA)
OCTOBER 25	9:00 A.M.	LINCOLN WAY 210 CAREER FAIR (NEW LENOX)
OCTOBER 31	8:00 A.M.	IRTBA LABOR RELATIONS COMMITTEE MEETING (ITASCA)
OCTOBER 31	9:00 A.M.	LABORERS JGC (BURR RIDGE)

¹ Information for MARBA Matters was obtained from the following sources: BNA Construction Labor Reports, Crain's Chicago Business, Northwest Times of Indiana, Chicago Tribune, and Sun-Times, CDQ, and the BLS, as well as various websites and other publications.

Did You Know?

National Taco Day is Celebrated on October 4th. More US Presidents have been born in October than any other month (6).

MLB POSTSEASON BEGINS OCTOBER 3.....CAN THE CUBS HOLD ONTO THE LAST PLAYOFF SPOT?

