

MARBA MATTERS

GRIEVANCES AND ARBITRATIONSⁱ

Mid-America Regional Council of Carpenters Arbitration Demands

MARBA received two (2) arbitration demands this month. One was regarding an alleged violation of Article 5.1 (Pay Day), the other was regarding an alleged violation of Article X (Job Steward).

Laborers Joint Grievance Committee

The Laborers JGC did not meet in August. The next regularly scheduled JGC is to be held on September 27, 2022, at Laborers Burr Ridge office, provided there are any cases set to go forward.

Operating Engineers Joint Grievance Committee

The Operating Engineers JGC did not meet in August. The next regularly scheduled JGC meeting was scheduled for October 5, 2022, at the Operators offices in Countryside. There are currently two (2) grievances on the docket.

Teamsters Joint Grievance Committee

The Teamsters JGC did not meet in August. The next regularly scheduled JGC meeting is set for September 29, 2022, at the Teamsters office in Burr Ridge beginning at 9:00 a.m. There is currently one (1) grievance pending.

COLLECTIVE BARGAINING/LABOR ISSUES

Union Activity Up 58% According to the NLRB

According to recent information released by the NLRB, union representation petitions have increased by 58% from the period of October 1, 2021, to June 30, 2022. During that time, the NLRB has processed more than 1,800 representation petitions. More than 1,500 of those petitions were filed by employees seeking first time representation (also known as RC petitions). Out of those 1,500 RC petitions filed, 20% (313) were attributed to Starbucks. While the number of RC petitions may seem like a dramatic increase, when removing Starbucks from the equation, one would find that roughly the same number of petitions were filed in quarters 1-3 in pre-

pandemic years of 2017, 2018, and 2019, as were filed in quarters 1-3 in FY 2022. Also increasing during the same time period is the number of unfair labor practice charges being filed. The NLRB saw a total of 12,819 ULPs filed, an increase of 16%.

While the NLRB has seen an increase in activity this fiscal year, the agency's budget has remained the same the last nine years. The agency's budget of \$274.2 million dollars has stayed constant since 2010 while the staffing level has dropped close to 40% since 2002. In his 2023 FY budget, President Biden is looking to allocate \$319.4 million dollars to the agency. This is roughly a 17% increase in funding much of which will go to assist with increased staffing due in large part to the influx of RC petitions.

INDUSTRY NEWS

Illinois Tollway Interim Executive Director Out

Just months after taking over the position, the interim Executive Director of the Illinois Tollway has left the agency. Lanyea Griffin, who only had been serving in the role since March, taking over for Jose Alvarez, has been replaced by Tollway Chief Operating Officer Cassaundra Rouse. Griffin's appointment in March came on the heels of the Chairman of the Board, Will Evans, being replaced by Dorothy Abreu in February. Executive Director Rouse has prior experience at the Tollway in auditing and compliance.

PLAs Would Be Required Under New Federal Proposal

On February 4, 2022, President Biden issued an Executive Order which indicated Project Labor Agreements (PLAs) should be required on all federal projects (with some exceptions). Earlier this month, on August 19, in response to the February 4, 2022, Executive Order, the Federal Acquisition Regulation (FAR) Council published a rule in the Federal Register which would require the use of a PLA on all federal projects valued at over \$35 million dollars. In comparison, under the Obama administration PLAs were encouraged, but not required, on projects over \$25 million dollars. The proposed rule is open for comments until October 18. The proposed rule and comment submission form can be found by clicking [here](#).

STATE OF THE ECONOMY

Economic Indicators

Unemployment Rate	July 2022 U.S. 3.5% (June 3.6%) Illinois 4.4% (45 th)
Labor Participation Rate	July 2022 = 62.1%, June 2022 = 62.2%

CPI All Urban Consumers	July 2022 over July 2021 = 8.52% Half 2022 over Half 2021 = 8.30%
CPI Chicago All Items	July 2022 over July 2021 = 8.83% Half 2022 over Half 2021 = 7.72%
CPI Midwest All Items	July 2022 over July 2021 = 8.60% Half 2022 over Half 2021 = 8.50%
Union Membership	2021 10.3% (Private Sector 6.1%), 2020 = 10.8% 2021 Rate of Unionized Construction Workers = 12.6% 12.7% (2020), 13.6% (2019), 13.8% (2018)
30 Year Fixed Mortgage	July 5.41%, down 0.11% (June 5.52%) Annual Average 2.96% (2021), 3.11% (2020)
15 Year Fixed Mortgage	July 4.61%, down 0.04% (June 4.65%) Annual Average 2.27% (2021), 2.61% (2020)
Brent Crude Oil	\$98.61 per barrel (as of August 30, 2022) \$145.61 per barrel all time high July 2008 \$2.23 per barrel all time low May 1970
Privately Owned New Housing Building Permits	1.3% below revised June rate 1.1% above July 2021 rate
Privately Owned New Housing Starts	9.6% below revised June rate (+/-8.6%) 8.1% below July 2021 rate (+/-11.9%)
GDP	Q2 2022 (2 nd) -0.6% Q2 2022 (Adv) -0.9% Q1 2022 (3 rd Reading) -1.6%
DJIA	32,202.70 as of August 29, 2022 (4 p.m.) 32,841.71 as of July 29, 2022 (4:00 p.m.) 31,025.30 as of June 29, 2022 (2:36 p.m.)

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

Worker's Rights Amendment Survives Legal Challenge, Will Remain on November Ballot

In a ruling issued on August 26, 2022, a three-judge panel out of the 4th Appellate District ruled that the "Worker's Rights Amendment" (Amendment 1) would remain on the ballot, striking

down a group of taxpayers' petition seeking to remove the Amendment from the ballot in the upcoming November election. The taxpayers argued the use of public funds for a constitutional amendment, that itself was unconstitutional, in that it was preempted by the NLRA and violated the U.S. Constitution's Supremacy Clause, was improper. The trial court initially ruled that, "no reasonable grounds existed for the proposed taxpayer actions because (1) Amendment 1 could have some valid applications that would not be subject to preemption and (2) preemption would only render Amendment 1 'dormant, not invalid.'" In agreeing with the trial court, the Appellate Court ruled that, "there is no waste of public funds caused by carrying out an election that conforms to constitutional requirements." As such, the Amendment will be on the ballot in November. The decision may be accessed by clicking [here](#).

Tesla's Ban on Pro-Union Attire Ruled Illegal

On August 29, 2022, in a 3-2 decision, issued along party lines, the NLRB ruled that Tesla's banning of a pro-union shirt worn by an employee to be illegal. The ruling in *Tesla, Inc.* 370 NLRB No. 88 (2021) overturns the Board's recent decision issued in *Wal-Mart Stores, Inc.*, 368 NLRB No. 146 (2019). The Board's decision reaffirmed the longstanding precedent that an employer's attempt to impose any sort of restriction on an employees' right to wear union clothing is presumptively unlawful absent any special circumstances.

In the *Tesla* case, the company required employees in the General Assembly area to wear a plain black shirt or one with a Tesla logo on it pursuant to its dress code policy. Other employees wore different colored shirts (i.e. red or white based on their job duties). All employees wore the same type of black pants free of zippers and rivets. During an organizing campaign employees began wearing shirts emblazoned with a statement, "Driving a Fair Future at Tesla" on the front and with a larger UAW logo on the back.

The Employer told two employees they could not wear the pro-union shirts as they did not comply with the "team-wear" policy. According to the Employer, the policy was put into effect to monitor employees to ensure they were located at their proper workstations/assigned areas and to avoid mutilation to the vehicles, specifically the seats. The ALJ hearing the case found that the black pro-union shirts did not differ so substantially from the "team-wear" shirts to make it difficult to tell who was not in their assigned area. The ALJ also found there was no evidence that wearing pro-unions shirt caused the seats to become mutilated. The ALJ also found the company's argument that the team-wear policy did not interfere with the employees Section 7 rights as they were allowed to wear pro-union buttons to be without merit.

The Board in a lengthy opinion analyzed numerous cases in which pro-union attire was at issue. In overturning the *Wal-Mart* case and upholding the ALJs decision in the *Tesla* case, the Board stated it was returning to the principle that an employer may not limit or ban an employee's display of union insignia at work absent a showing by an employer that special circumstances exist. The dissenting members disagreed that any limitation on the display of union insignia, no matter how slight, is presumptively unlawful. The decision can be accessed by clicking [here](#).

UPCOMING SEMINARS/EVENTS

CAGC IT ALL STARTS WITH YOUR CONTRACT

JOIN MEMBERS OF THE CAGC SPECIALTY CONTRACTORS COMMITTEE AS THEY COVER DISPUTES, CLAIMS, & LESSONS LEARNED

DATE: SEPTEMBER 14, 2022
 TIME: 12:30 P.M. REGISTRATION, 1:00-5:00 P.M. PROGRAM, NETWORKING 5:00 P.M. – 6:30 P.M.
 LOCATION: MAGGIANO’S OAK BROOK 240 OAKBROOK CENTER OAK BROOK, IL 60523
 COST: \$79 MEMBERS, \$99 NON-MEMBERS, \$250 SPONSORSHIPS
 CONTACT: MIKE HAMPSON MHAMPSON@CHICAGOLANDAGC.ORG OR CLICK [HERE](#).

CALENDAR

SEPTEMBER 1	12:30 P.M.	PUBLIC ACT 102-1076 SEMINAR (ONLINE)
SEPTEMBER 8	10:00 A.M.	OPERATING ENGINEERS CONCRETE PUMP MEETING (WILMINGTON)
SEPTEMBER 12	8:00 A.M.	CISCO GOLF OUTING (BLOOMINGDALE)
SEPTEMBER 13	11:00 A.M.	MIAF MEETING (OAK BROOK)
SEPTEMBER 13	12:00 P.M.	MARBA BOARD MEETING (OAK BROOK)
SEPTEMBER 15	12:00 P.M.	FUNDAMENTALS OF LABOR LAW WEBINAR (ONLINE)
SEPTEMBER 20	9:00 A.M.	IRTBA GOLF OUTING (LEMONT)
SEPTEMBER 27	12:00 P.M.	SMITHAMUNDSEN’S 8 TH ANNUAL CONSTRUCTION SEMINAR (ONLINE)
SEPTEMBER 27	8:00 A.M.	RCEC ECONOMIC FORUM (ONLINE)
SEPTEMBER 27	9:00 A.M.	TEAMSTERS JGC (BURR RIDGE)
SEPTEMBER 29	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?

The first newspaper ever published in the U.S. was on September 25, 1690.
 It was titled Publick Occurrences Both Foreign and Domestick.
 It was closed by the British colonial authorities after only one publication.
 The next newspaper would not be seen in the U.S. for fourteen more years.

THE NFL KICKS OFF THURSDAY SEPTEMBER 8 - WILL THE RAMS DEFEND THEIR TITLE????

