

MARBA MATTERS

GRIEVANCES AND ARBITRATIONSⁱ

Mid-America Regional Council of Carpenters Arbitration Demands

MARBA has received one (1) arbitration demand since the last MARBA Matters was published. The demand alleged an employer violated Article X (Stewards) of the Cook, Lake, DuPage CBA.

Laborers Joint Grievance Committee

The Laborers JGC did not meet in November. The next regularly scheduled JGC will take place on December 27, 2022, at the Laborers Burr Ridge office provided there are any grievances set to go forward.

Operating Engineers Joint Grievance Committee

The Operating Engineers JGC did not meet in November. The next regularly scheduled JGC is to be held on December 7, 2022, at Operators Countryside office. There are currently seven (7) grievances on the docket to be heard, six (6) are filed against the same contractor.

Teamsters Joint Grievance Committee

The Teamsters JGC did not meet in November. The next regularly scheduled hearing is on December 29, 2022, provided there are any grievances set to go forward. The hearing would take place at the Teamsters office in Burr Ridge.

COLLECTIVE BARGAINING/LABOR ISSUES

Christmas and New Year's Holiday Memo

Christmas and New Year's fall on a Sunday this year. As such, per the MARBA CBAs, the holidays are celebrated on Monday, December 26 and Monday, January 2. This means double time is paid for work performed on those two days. The following [link](#) will take you to the MARBA Holiday memo which discusses the various trades and any additional requirements as it relates to the holidays.

INDUSTRY NEWS

DOL Publishes Long Awaited Final Regulation Regarding ESG Focused Investments

On November 22, 2022, the Department of Labor published a final rule which will explicitly allow retirement plan fiduciaries to consider environmental, social, and governance metrics when selecting investments. The rule, entitled, “Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights” comes after a decade of back and forth between the Obama era DOL and Trump era DOL (both administrations issued competing ESG rules). The new rule will replace the rule proposed by the Trump era DOL which sought to limit or even prohibit the use of ESG scoring in selecting investments. However, the rule stops short of returning to the Obama era DOL rule pertaining to ESG. Part of the issue that has caused the rule to languish for the past two years, has been the Senate’s inability to confirm the Biden administration’s pick to head the DOL’s Employee Benefits Security Administration (EBSA), Lisa Gomez. Now that Ms. Gomez has been approved, after having been rejected two prior times, the DOL is ready to move forward with implementing the new ESG rule.

STATE OF THE ECONOMY

Economic Indicators

Unemployment Rate	October U.S. 3.7% (September 3.5%) Illinois 4.6% (49 th)
Labor Participation Rate	October 2022 = 62.2%, September 2022 = 62.3%
CPI All Urban Consumers	October 2022 over October 2021 = 7.75% Half 2022 over Half 2021 = 8.30%
CPI Chicago All Items	October 2022 over October 2021 = 7.65% Half 2022 over Half 2021 = 7.72%
CPI Midwest All Items	October 2022 over October 2021 = 7.41% 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	October 6.90%, up 0.79% (September 6.11%) Annual Average 2.96% (2021), 3.11% (2020)

15 Year Fixed Mortgage	October 6.15%, up 0.80% (September 5.35%) Annual Average 2.27% (2021), 2.61% (2020)
Brent Crude Oil	\$83.98 (as of November 28,2022, at 12:27 p.m.) \$145.61 per barrel all time high July 2008 \$2.23 per barrel all time low May 1970
Privately Owned New Housing Building Permits	2.4% below revised September rate 10.1% below October 2021 rate
Privately Owned New Housing Starts	4.2% below revised September rate (+/-12.7%) 8.8% below October 2021 rate (+/-12.7%)
GDP	Q3 2022 (Adv)+2.6% Q2 2022 (3 rd) -0.6% Q1 2022 (3 rd Reading) -1.6%
DJIA	34,000.16 as of November 28, 2022 (12:30 p.m.) 32,862.66 as of October 28, 2022 (4 p.m.) 29,235.10 as of September 29, 2022 (4 p.m.)

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

Congress Set to Intervene to Avert Railroad Strike

Just a few months ago, the nation was bracing for the impact of a potential strike among the major railroad carriers. At the time, the unions and employers were in the midst of heated negotiations and all signs pointed to a strike that would have had a crippling effect on the nation's fragile economy. However, after several long days of negotiations between the two groups, and with assistance from the federal government, it appeared that the parties resolved their differences and reached a tentative agreement foregoing a nationwide strike. At the time, the Biden administration heralded the tentative agreement as an important development in the nation's economic recovery. The only thing that was left was to have the twelve (12) unions ratify the agreement.

Almost instantly, many of the rank-and-file members of the various unions started to indicate they did not support the tentative agreement. The main issue for the rank and file was sick days, or lack thereof. The prior agreement between the employers and unions did not have sick days (or the ability to call off for medical appointments). Many of the unions voted to accept the offer. However, four (4) of the unions, including the largest union SMART-TD, voted against the tentative

agreement. SMART-TD represents 28,000 engineers across the country. Since the tentative agreement was voted down, a strike date of December 9, 2022, was set.

It is estimated that should a strike occur, at the height of the holiday season, upwards of \$2 billion dollars a day could be lost on the economy. Many rail lines have started to take precautions in advance of a strike, particularly as it relates to hazardous materials. Other agencies that lease rail lines from the owners have begun to make contingency plans (Amtrak, Metra, etc.). As a result of this impending strike, President Biden called on Congress to intervene.

Pursuant to the Railway Labor Act (RLA) and the U.S. Constitution, specifically Article I, Section 8, clause 3 of the U.S. Constitution, Congress is empowered to intervene in labor disputes involving railroad (and airlines). Article I, Section 8, clause 3 states that the Congress shall have power “[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” In 1917, the Supreme Court held this provision of the Constitution included the power to regulate and intervene in railway disputes.

The RLA and the U.S. Constitution, taken together, lead many to believe Congress will intervene and avoid a strike. Although Congress has this power, they have indicated they are hesitant to do so (many in Congress indicate they do not want to get involved in private disputes). In any event, both the House and Senate would need to vote on imposing the tentative agreement. The House, late in the day today, passed two resolutions that deal with the dispute. The first resolution called for the tentative agreement to be implemented. The second resolution called for seven (7) sick days to become part of the parties CBA (this is one of the biggest sources of contention between the parties right now) as opposed to three sick days previously “agreed” to on the agreement brokered by the Biden Administration.

It is unclear what the Senate will do. The two resolutions need 60 votes to avoid a filibuster. The four unions that rejected the tentative agreement have indicated they are not too keen on having this “deal” imposed on them. The Biden Administration has been called the most pro-labor Presidential administration. It will be interesting to see if this ultimately goes through with so much public feuding between the Administration and the Unions.

UPCOMING SEMINARS/EVENTS

GLCA to Host Annual APEX Awards & Dinner Gala

The GLCA will host their Annual APEX Awards and Dinner Gala at the Chicago Botanic Gardens.

Date: Friday, December 2, 2022
Time: 5:00 p.m. to 7:00 p.m.
Location: 1000 Lake Cook Road
Glencoe, IL 60022
Cost: Contact GLCA
Contact: events@greatlakesca.org or call Lorraine Kocian at 847-523-2345

CALENDAR

DECEMBER 2	11:00 A.M.	36TH ECONOMIC OUTLOOK SYMPOSIUM (ONLINE)
DECEMBER 7	8:30 A.M.	OPERATING ENGINEERS JGC (COUNTRYSIDE)
DECEMBER 8	6:00 P.M.	IRTBA HOLIDAY PARTY (ROSEMONT)
DECEMBER 27	9:00 A.M.	LABORERS JGC (BURR RIDGE)
DECEMBER 29	9:00 A.M.	TEAMSTERS JGC (BURR RIDGE)

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?

On December 2, 1942, the world's first self-sustaining nuclear chain reaction occurred at the University of Chicago. It was overseen by Enrico Fermi and was conducted under the west viewing stands of the original Stagg Field.



MARBA WILL BE CLOSED ON MONDAY, DECEMBER 26, 2022, AND MONDAY, JANUARY 2, 2023 IN OBSERVANCE OF THE CHRISTMAS AND NEW YEAR'S HOLIDAY.