

## **Grievances and Arbitrations<sup>1</sup>**

### **Chicago Regional Council of Carpenters Arbitrations**

MARBA received one arbitration request this month regarding Article IV (Wages).

### **Laborers Joint Grievance Committee**

The Laborers Joint Grievance Committee met on June 9, 2021, at the Laborers District Council office in Burr Ridge to hear one (1) grievance. The grievance concerned an allegation that a member did not receive pay for three (3) days of work. After hearing the testimony and reviewing the evidence, the JGC was unable to reach a majority decision that resulted in the matter being deadlocked.

### **Operating Engineers Joint Grievance Committee**

The Operating Engineers Joint Grievance Committee did not meet in June. The next meeting is scheduled for July 14, 2021, at the offices of Local 150. The Union has advised there are currently four (4) grievances to be heard.

### **Teamsters Joint Grievance Committee**

The Teamsters Joint Grievance Committee did not meet in June. The next regularly scheduled meeting is set for July 29, 2021, at Teamsters office in Burr Ridge. At this point, there are no grievances pending.

## **Collective Bargaining/Labor Issues**

### **2021 Negotiations**

MARBA is regularly posting updated collective bargaining agreements on its website including the most updated wage and fringe benefit information. To view the updated agreements, click [here](#). To view the updated wage and fringe benefit information click [here](#).

## **Industry News**

### **President Biden Nominates Two to Fill NLRB Spots**

President Biden recently nominated two union side attorneys to fill National Labor Relation Board member positions. In late May, Biden nominated Gwynne Wilcox to fill a long-term vacancy on the Board. Ms. Wilcox currently is a partner at the law firm of Levy Ratner PC. She also serves as the Associate General Counsel for the Service Employees International Union (SEIU). Prior to her private sector career, Ms. Wilcox worked for the NLRB as a field attorney out of the Manhattan office.

Also nominated, on June 22, 2021, was David Prouty. Mr. Prouty is currently General Counsel for SEIU Local 32BJ. Local 32BJ is the largest union for property service workers in the country boasting 175,000 members. Prior to his role at Local 32BJ, Mr. Prouty served as an attorney for the Major League Baseball Players Association from 2008-2017. Mr. Prouty would be filling the seat of Board Member William Emmanuel whose term expires on August 27, 2021.

The nominations of both Ms. Wilcox and Mr. Prouty will require Senate confirmation. While it is unclear how long that process will take, if both candidates are confirmed, the Board composition will favor Democrats (3-2). This comes on the heels of President Biden tapping Board Member Lauren McFerran (previously appointed under the Obama Administration) to serve as Board Chair.

### **U.S. Department of Transportation Releases Bridge Report**

According to the most recent report released by the U.S. Department of Transportation Federal Highway Administration over 2,300 bridges in Illinois are classified as “poor”. There are currently 26,848 bridges in the state covering over 13.5 million square meters. Bridges were judged on several criteria, including decks, substructure, superstructure, as well as culverts. The highest possible score a bridge can receive is a 10. Bridges rated 4 or less fall in the poor category. The report can be found by clicking [here](#).

## **State of the Economy**

### **Economic Indicators**

Unemployment Rate	May 2021 U.S. 5.8%, Illinois 7.1% (42 <sup>nd</sup> )
Labor Participation Rate	May 2021 = 61.6%, April 2021 = 61.7%
CPI All Urban Consumers	May 2021 versus May 2020 = 4.99%
CPI Chicago All Items	May 2021 versus May 2020 = 4.65%
CPI Midwest All Items	May 2021 versus May 2020 = 5.60%
Union Membership	2020 10.8% (Private Sector 6.3%), 2019 = 10.3%
Rate of Unionized Construction Workers	12.7% (2020), 13.6% (2019), 13.8% (2018), 14.0% (2017)
30 Year Fixed Mortgage	May 2.96%, down 0.10% (April 3.06%)
15 Year Fixed Mortgage	May 2.28%, down 0.08% (April 2.36%)
Brent Crude Oil Price	\$ 72.71 per barrel (as of June 28, 2021, 12:50 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	3.0% below revised April rate (+/-1.4%) 34.9% above May 2020 rate (+/-2.4%)
Privately Owned New Housing Starts	4.1% below revised April rate (+/-9.8%) 16.1% above May 2020 rate (+/-10.9%)
GDP	1 <sup>st</sup> Quarter 2021 (2 <sup>nd</sup> ) = 6.4% 4 <sup>th</sup> Quarter 2020 (3 <sup>rd</sup> ) = 4.3%
DJIA	34,540.31 as of May 28, 2021 (close) 34,248.46 as of June 28, 2021 (1:00 p.m.)

**Janik's J.D. – An Update on Labor/Construction Legal Issues**  
**Aaron Janik – Executive Director MARBA**

**Supreme Court Issues Decision Restricting Union Access**

The Supreme Court recently issued a decision which held a union's right to access an employer's property constituted a *per se* taking under the U.S. Constitution and pursuant to the Takings Clause of the 5th Amendment (applied to the states through the 14<sup>th</sup> Amendment) requires the government to provide the owner with just compensation.

Since 1975, the State of California, through its Agricultural Labor Relations Act (CALRA) has given agricultural employees the right to organize and has made it an unfair labor practice for employers to interfere with that right. The Agricultural Board ("Board") has drafted and enforced rules including the right of union organizers to access an employer's property to solicit support. Unions, under the Board rules, are allowed to enter an agricultural employer's property for up to four (4) thirty (30) day periods throughout the year (120 days total) for an hour before work starts, an hour during lunch break, and an hour after work. The Unions are required to provide notice to the Board and the Employer before accessing the premises.

In July 2015, organizers from the United Farm Workers attempted to enter Fowler Packing Company in an attempt to organize the workforce. The Union did not provide advance notice to Fowler and were denied entry by the Employer. Later, in October 2015, organizers from the United Farm Workers union entered the property of Cedar Point Nursery without prior notice. Upon entry, they disrupted work being done causing some employees to walk out of work in protest. Fearing subsequent attempt by the Union to enter their property, the Employers filed suit in District Court against the Board arguing the access regulation the Board enforced constituted a Constitutional violation. The growers sought injunctive and declaratory relief prohibiting the Board from enforcing the regulation against them. The District Court denied the injunction and a divided Ninth Circuit affirmed the decision.

In affirming the decision, the Ninth Circuit Court identified three categories they considered to be a regulatory taking for purposes of constitutional violations; regulations that impose permanent physical invasions, regulations that deprive an owner of all economically beneficial use of their property, and all remaining regulatory actions. The Supreme Court in reviewing the matter held, "whenever a regulation results in a physical appropriation of property, a taking has occurred". Moreover, the Court held, "the access regulation [in the case at hand] appropriates a right to invade the growers' property and therefore constitutes a *per se* physical taking...rather than restraining the growers' use of their own property, the regulation appropriates enjoyment of third parties the owners right to exclude." In examining this case, the Court reaffirmed the long-held proposition that the right to exclude is "universally held to be a fundamental element of the property right."

The Court went on to examine instances in which certain government actions (such as the granting of a permit) are distinguishable from the Boards regulations regarding access. In those types of cases the Court found there was only a restriction on use which differed from the regulation of being able to exclude individuals from the property. Although the Court reversed the decision of the Ninth Circuit and remanded the case for further proceedings, it did not address the amount of compensation that may be due to Employers based on the Court's decision. The case, *Cedar Point Nursery, et al. v. Hassid et al.* was decided 6-3 and can be found by clicking [here](#).

Upcoming Seminars/Events	Calendar	
<p><b><u>CAGC CLC Social</u></b></p> <p>Join the CAGC Construction Leadership Council for a night out next to Wrigley Filed on a beautiful rooftop!</p> <p>Date: Thursday, July 15, 2021            Time: 5:30 p.m. to 7:00 p.m.            Location: Sports Corner Bar &amp; Grill            956 W. Addison            Chicago, IL</p> <p>Cost: \$55-member, \$79 non-member            Contact: CAGC office or click <a href="#">here</a></p>	<p>July 13 12:00 p.m. MARBA Board (MARBA)</p> <p>July 14 8:30 a.m. Operating Engineers (Countryside)</p> <p>July 16 11:00 a.m. CISCO Annual Luncheon (Chicago)</p> <p>July 21 10:30 a.m. Cement Masons LMCC (Bellwood)</p> <p>July 27 9:00 a.m. Laborers JGC (Burr Ridge)</p> <p>July 29 9:00 a.m. Teamsters JGC (Burr Ridge)</p>	

**Did You Know:** U.S Soldiers received a double ration of rum for the 4<sup>th</sup> of July holiday, 1778 per the orders of Gen. George Washington. Also occurring on July 4, (albeit 1944) the birth of one William J. Janik (happy birthday Dad).

<sup>i</sup> 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.



The MARBA office will be closed on Monday, July 5<sup>th</sup> in observance of the 4<sup>th</sup> of July Holiday.