

# MARBA MATTERS

January 31, 2020

*Serving the Construction Industry Since 1971*

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

### Chicago Regional Council of Carpenters Arbitrations

MARBA received two arbitration requests this month both dealing with the placement of a steward.

### Laborers Joint Grievance Committee

The Laborers Joint Grievance Committee did not meet in January. The next meeting is scheduled for February 25, 2020, at the MARBA office.

### Operating Engineers Joint Grievance Committee

The Operating Engineers Joint Grievance Committee did not meet in January due to scheduling conflicts for the Committee members. The next meeting is scheduled for March 18, 2020, at the offices of Local 150 beginning at 8:30 a.m. There are currently five (5) grievances on the docket.

### Teamsters Joint Grievance Committee

The Teamsters Joint Grievance Committee did not meet in January. The next meeting is scheduled for February 27, 2020, at a location to be determined.

## Collective Bargaining/Labor Issues

### 2019 Bargaining Right Assignments Due

As a reminder, collective bargaining agreements with the Technical Engineers Local 130 and Bricklayers ADC 1 expire on May 31, 2020. Bargaining right assignment packets have been distributed to MARBA Associations. They are due to back to your association by February 14, 2020. If you have any questions about this process, please contact your association or the MARBA office.

## Industry News

### Unionized Workforce Declines

According to the Bureau of Labor Statistics the number of employees in the United States represented by unions declined by about 170,000 people, from 14.74 million to 14.57 million. As a percentage 10.3%, of the workforce is represented by a Union in 2019

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compared to 10.5% in 2018. The decline to 10.3% is a new post-World War II low. At its peak union membership was 25% (1953).

Private sector union membership is at 6.2% whereas public sector union membership stands at 33.6%. The full report issued by the BLS can be found here: <https://www.bls.gov/news.release/union2.htm>

### **Right-to-Work Legislation Upcoming**

The Illinois General Assembly returned to Springfield earlier this week to begin its spring legislative session. One piece of legislation that has yet to be introduced, but is already garnering quite a bit of attention, is a proposed constitutional amendment banning right to work laws in Illinois. If the legislation is passed the question would be placed on the November 2020 ballot along with Governor Pritzker's "fair tax" constitutional amendment. Several business groups have indicated their opposition to the proposed legislation citing the need to keep Illinois competitive with surrounding states that do not have such legislation.

### **Commercial Construction To Slow In Chicago**

According to a recent article in Crain's Chicago Business, citing a report issued by Dodge Analytics, construction projects in the city of Chicago are expected to drop by 10% this year. If this holds true it will be the third year out of the last four in which Chicago saw a decrease and the 10% would represent the largest decline since the economic downturn of 2008. Factors leading to this decline include the efforts by the Cook County Assessor to reevaluate property tax assessments for commercial property as well as new requirements being imposed by Chicago on affordable housing. Issues with global trade and tariffs combined with a presidential election year also are contributing to the decline.

Although the area is projected to see a decline the number of construction workers is on the rise. According to the article, construction jobs in the Chicago area stood at 130,000 up from 104,000 in 2012 but still off the pace of 160,000 reached just before the recession. Many projects have just broken ground in the City and will require many new workers. The article cites the fact that some unions are employing upwards of 200 retirees to offset the shortage of skilled tradespersons.

## **State of the Economy**

### **Economic Indicators**

Unemployment Rate	December 2019 U.S. 3.5%, Illinois 4.3% (40 <sup>th</sup> )
Labor Participation Rate	December 2019 = 63.2%, November 2019 = 63.2%
CPI (All Urban Consumers)	December 2019 versus December 2018 = 2.17%

CPI Chicago All Items	December 2019 versus December 2018 = 2.31% Year 2019 versus Year 2018 = 1.46%
CPI Midwest All Items	December 2019 versus December 2018 = 2.26% Year 2019 versus Year 2018 = 1.49%
Union Membership	2019 = 10.3% (Private Sector 6.2%), 2018 = 10.5% Rate of Unionized Construction Workers = 13.6% (2019), 13.8% (2018), 14.0% (2017)
30 Year Fixed Mortgage	December 3.72%, up 0.02% (November 3.70%) Annual Average 3.94%
15 Year Fixed Mortgage	December 3.18%, up 0.02% (November 3.16%) Annual Average 3.39%
Brent Crude Oil Price	\$ 61.79 per barrel (as of January 23, 2020) \$ 145.61 per barrel all time high July 2008 \$ 2.23 per barrel all time low May 1970
Privately Owned New Housing Building Permits	3.9% below revised November rate (+/-1.6%) 5.8% above December 2018 rate (+/-1.1%)
Annual Building Permits	1,368,800 in 2019 3.9% above 2018 1,317,900
Privately Owned New Housing Starts	16.9% above revised November rate (+/-12.8%) 40.8% above revised December rate (+/-20.5%)
Annual Housing Starts	1,289,8000 in 2019 3.2% above 2018 1,249,900
GDP	4 <sup>th</sup> Quarter 2.1% (Advance Estimate) 3 <sup>rd</sup> Quarter 2.1%
DJIA	28,541.65 as of January 31, 2020 (9:33 a.m.) 25,014.86 as of January 31, 2019

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

### **NLRB Releases Flurry of Decisions at End of Year**

In late December 2019, the NLRB issued a flurry of decisions that are considered by many to be “pro-employer”. The recent decisions overturn several Obama-era Board decisions which were considered “pro-employee”. Those Obama-era Board decisions

had previously overturned years of Board precedent, some going back almost sixty years. The recently issued decisions return to previously long held standards.

The decision issued in *Caesars Entertainment* (368 NLRB No. 143) overruled the widely known 2014 *Purple Communications* decision. The *Caesars* and *Purple Communication* decisions dealt with the use of employer owned IT equipment for Section 7 rights. Under Section 7, employees have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their choosing, and to engage in other concerted activities for the purpose of collective bargaining or other aid or mutual protection as well as the right to refrain from such activities.

The *Caesars* decision held employers may restrict employees use of company owned IT equipment for non-business communications, including those communications covered by Section 7. The standard the Board returned to under the *Caesars* decision was the standard long held as stated under *Register Guard* but subsequently overturned by *Purple Communication*. However, the recent *Caesars* decision created one exception, holding employees may use the employer's email systems if those systems are the only reasonable means for employees to communicate with one another.

The Board's decision issued in *Apogee Retail* (368 NLRB No. 144) deals with confidentiality during the pendency of an investigation into employee misconduct. The Board's prior decision in *Banner Estrella* (2015) required a case-by-case determination into the application of confidentiality during an employer's investigation into an employee's actions. Under the Board's recent decision in *Apogee*, confidentiality during employer investigations are now divided into two categories. First, an employer policy that requires confidentiality during the investigation will be lawful. Second, an employer policy that requires confidentiality post-investigation may be lawful if it can show one or more legitimate justifications for such confidentiality.

Lastly, the decision in *Valley Hospital Medical Center* (368 NLRB No. 139) deals with dues deductions and the employer's responsibility to continue those deductions after the expiration of a CBA. The long-held standard came out of the *Bethlehem Steel* case in 1962. Prior to the overruling of the *Bethlehem Steel* standard employers were under no obligation to continue dues deductions after a CBA expired. Although dues deductions are a mandatory subject of bargaining the NLRB considered them a limited category of mandatory subject of bargaining as they are created by the parties' contract.

The decision to overturn *Bethlehem Steel* in 2015 (*Lincoln Lutheran of Racine*) overturned 53 years of Board precedent and required employers to continue to deduct dues after a CBA expired under a status quo scenario. However, in the recent *Valley* decision the Board held employers no longer need to continue deducting dues from employee's paychecks after a CBA has expired. The Board held, "an employer is free upon contract expiration to use dues-checkoff cessation an economic weapon in bargaining without interference from the Board."

## Upcoming Seminars/Events

### **UCA Legislative Reception**

Join the UCA for their 6<sup>th</sup> Annual Legislative Reception

Date: Thursday, February 13, 2020  
 Time: 6:00 p.m. to 8:00 p.m.  
 Location: Medinah Country Club  
 6N001 Medinah Rd.  
 Medinah, IL 60157  
 Cost: \$250.00 per individual, sponsorships available  
 Contact: Lauren at 630-467-1919 or [lfosmoen@uca.org](mailto:lfosmoen@uca.org)

### **CAGC CLC Mardi Gras Networking Event**

Join the CAGCs CLC group for a fun Mardi Gras networking event at one of Chicago's hottest night spots.

Date: Thursday, February 20, 2020  
 Time: 5:30 p.m. to 8:00 p.m.  
 Location: Carnivale  
 702 W. Fulton Market  
 Chicago, Illinois 60661  
 Cost: \$90.00 per person  
 Contact: [Esteinmetz@chicagolandagc.org](mailto:Esteinmetz@chicagolandagc.org) or 773-444-0465

## Calendar

February 6	10:30 a.m.	Cement Masons LMCC (Bellwood)
February 13	8:00 a.m.	Bricklayers Pension and HW Meeting (Elmhurst)
February 13	6:00 p.m.	UCA Legislative Reception (Medinah)
February 14	10:30 a.m.	Executives Meeting (MARBA)
February 20	3:00 p.m.	Reasonable Suspicion Testing Seminar (Mokena)
February 25	9:00 a.m.	Laborers JGC (MARBA)
February 27	9:00 a.m.	Teamsters Joint Grievance Committee (TBD)

Did You Know: February 1865 is the only month in recorded history not to have a full moon.  
 According to the National Chicken Council over 1.25 billion wings are eaten on Superbowl Sunday!

<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.

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SUPERBOWL SUNDAY!  
WHO WILL WIN?  
CHIEFS OR 49ERS?



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