

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

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

MARBA received three arbitration demands this month all dealing with the employer's alleged violation of Article 20.9 (regarding notification to the union before work commences).

### **Laborers Joint Grievance Committee**

The Laborers Joint Grievance Committee did not meet in November. The next regularly scheduled meeting is set for December 29, 2020, at the Laborers Burr Ridge office beginning at 9:00 a.m.

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

The Operating Engineers Joint Grievance Committee met on November 11, 2020, at the Operating Engineers offices in Countryside to hear ten (10) grievances although eight (8) were filed against the same contractor. The first grievance involved the contractor's alleged use of non-bargaining unit employees to run equipment. After both parties' presentations the Committee was unable to reach a majority decision that resulted in a deadlock. The Union retained the right to pursue the matter through arbitration, however, shortly after the JGC hearing the Union withdrew the grievance. The second grievance was continued from a previously heard grievance (August). During the hearing the Union agreed to continue the case a second time to allow the contractor more time to submit some requested information. The last eight (8) grievances were filed against the same contractor alleging non-bargaining unit employees were operating equipment. The contractor previously indicated he is not signatory to the Union, and he did not appear. As a result, the Committee issued a decision based on the presentation of the Union. The next regularly scheduled meeting is scheduled for January 13, 2021. The Union will be sending an updated docket at a later date.

### **Teamsters Joint Grievance Committee**

The Teamsters Joint Grievance Committee did not meet in November. The next regularly scheduled hearing date is December 31, 2020, provided there would be any grievances that needed to be heard. The location would be TBD.

## **Collective Bargaining/Labor Issues**

### **2021 Bargaining Rights Packets To Be Distributed in December**

MARBA will be distributing the 2021 Assignment of Bargaining Rights packets via MARBA Member Associations in mid-December. The forms contain specific instructions as to how to handle assignment of bargaining rights and deadlines that employers will need to adhere to. Please be on the lookout for this important information in the coming few weeks.

## Industry News

### **Biden Administration May Pivot to More Employee Friendly NLRB**

The NLRB has moved from a more employee friendly Board under the Obama administration to what many have characterized as a more employer friendly Board under the Trump administration the past four years. As a result of the presidential election earlier in November many are now predicting a swing back to a more employee friendly Board under the Biden administration although that swing will not occur immediately.

The current composition of the Board will be in place for at least a year as many of the Board members terms do not expire until 2022 or later (Board Member William Emanuel's seat expires in August 2021). There is currently one open seat. Additionally, the Board's General Counsel, Peter Robb, still has approximately one year left on his term.

There are several areas many experts expect a "new" Board to address including but not limited to the joint employer standard, employee v. independent contractor classification, and the use of inflatables at worksites (i.e. Scabby the Rat). Based on some of the rhetoric used by Biden during the campaign it is possible, and quite likely, a Biden administration will look to move back to the Obama era concepts of the aforementioned issues.

### **PBGC Multiemployer Premium Increases for 2021**

The PBGC recently released its per participant premium rates for 2021. The multiemployer plan premium increased by \$1.00 from \$30.00 per participant to \$31.00 per participant. This increase is "indexed" for inflation. The single employer premium also increased from \$83 participant to \$86 per participant.

## State of the Economy

### **Economic Indicators**

Unemployment Rate	October 2020 U.S. 6.9%, Illinois 6.8%(33 <sup>rd</sup> )
Labor Participation Rate	October 2020 = 61.7%, September 2020 = 61.4%
CPI (All Urban Consumers)	October 2020 versus October 2019 = 1.37% Half 2020 = 1.24%
CPI Chicago All Items	October 2020 versus October 2019 = 1.18% Half 2020 = 1.23%
CPI Midwest All Items	October 2020 versus October 2019= 0.97% Half 2020 = 0.86%
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	October 2.83% down 0.06% from September 2.89% Annual Average 2019 = 3.94%, 2018 = 4.54%
15 Year Fixed Mortgage	October 2.35% down 0.04% from September 2.39% Annual Average 2019 = 3.39%, 2018= 4.00%
WTI Crude Oil Price	\$ 44.91 per barrel (as of November 30, 2020 at 12 pm) \$110.62 per barrel all time high Year Close 2013 \$ -40.32 per barrel (May 2020) all time low March 2020
Privately Owned New Housing Building Permits	Unchanged from revised September rate (+/-1.3%) 2.8% above October 2019 rate (+/- 1.6%)
Privately Owned New Housing Starts	4.9% above revised September rate (+/-11.1%)* 14.2% above October 2019 rate (+/- 8.8%)
Housing Completions	4.5% below revised September rate (+/-9.5%)* 5.4% above October 2019 rate (+/- 10.7%)
DJIA	29,571.29 as of November 20, 2020 (12 p.m.) 26,501.60 as of October 30, 2020 (close)

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

**NLRB Rules Tweets Have Meaning**

The NLRB recently issued a decision in which the publisher for the Federalist was held to have violated Section 8 (a)(1) the NLRA when he tweeted, from his personal account, “FYI @fdrlst first one of you tries to unionize I swear I’ll send you back to the salt mines.”. The tweet coincided with a walkout by employees of Vox (the company owns several online media publications). The General Counsel issued a complaint and a hearing was held in which the ALJ ruled it was obvious the tweet was designed to intimate and interfere with the employee’s rights to organize or otherwise engage in protected concerted activities. Although the employees did not work in the “salt mines” the intent behind the tweet was clear.

The NLRB, in a 3-0 decision, upheld the ALJ’s decision. The Board found, “that employees would reasonably view the message as expressing an intent to take swift action against any employee who tried to unionize the Respondent. In addition, the reference to sending that employee “back to the salt mine” reasonably implied that the response would be adverse.” The Respondent has indicated he intends to appeal the Board decision to the Federal Court of Appeals. While this case was pending before the Board the Respondent “doubled-down” on his initial tweet by creating a “Federalist Salt Mine Co.” tee-shirt available for purchase. The Board’s decision follows its recent rulings in cases involving tweets from other personal accounts made by CEOs (including Dave Portonoy and Elon Musk). The Board decision can be found by clicking [here](#).

Upcoming Seminars/Events	Calendar
<p><b><u>CAGC Constructors Connect (Virtual Event)</u></b></p> <p>When: Thursday, December 10, 2020 12:00 to 1:30 p.m.</p> <p>Where: Online event</p> <p>Who: CAGC members and industry partners, Remarks by Governor Pritzker</p> <p>Info: To register for this event click <a href="#">here</a>.</p>	<p>December 4 12:00 p.m. Will County CED Webinar</p> <p>December 10 12:00 p.m. Constructors Connect</p> <p>December 29 9:00 a.m. Laborers JGC (Burr Ridge)</p> <p>December 31 9:00 a.m. Teamsters JGC (Burr Ridge)</p>
<p><b>Did You Know:</b> On the evening of December 21, 2021 Saturn and Jupiter will be in the closet conjunction to each other since 1623</p>	

<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 90 percent confidence interval includes zero. In such cases, there is insufficient statistical evidence to conclude that the actual change is different from zero.



The MARBA office will be closed on Friday December 25 in observance of Christmas.  
The office will re-open on Monday, December 28, 2020