

# MARBA MATTERS

## GRIEVANCES AND ARBITRATIONS<sup>i</sup>

### Chicago Regional Council of Carpenters Arbitrations

MARBA received one arbitration request this month regarding a wage claim.

### Laborers Joint Grievance Committee

The Laborers Joint Grievance Committee met on September 28, 2021, at the Laborers District Council in Burr Ridge to hear one (1) grievance. The grievance alleged a Laborer was wrongfully discharged. The company indicated the grievant, a flagger, abandoned their post on several occasions and other employees complained about it. The grievant claimed they were subject to harassment from another company employee, and they were discharged only after bringing that claim forward to the company. After hearing from both the Company and the grievant, the Committee was unable to reach a majority decision that resulted in a deadlock. The Union retains the right to process the grievance through the arbitration provision of the agreement. The next meeting is scheduled for October 26, 2021, at the Laborers Burr Ridge office provided there are any grievances scheduled to go forward.

### Operating Engineers Joint Grievance Committee

The Operating Engineers Joint Grievance Committee did not meet in September. The next meeting is scheduled for Wednesday, October 6, 2021, beginning at 8:30 a.m. at the Operators office in Countryside. There are currently seven (7) grievances scheduled to be heard.

### Teamsters Joint Grievance Committee

The Teamsters Joint Grievance Committee did not meet in September. The next meeting is scheduled for October 28, 2021, at the Teamsters office in Burr Ridge provided there are any grievances scheduled to go forward.

## COLLECTIVE BARGAINING/LABOR ISSUES

### Washington Carpenters on Strike

On September 16, 2021, Carpenters in the state of Washington went on strike. The number of union carpenters on strike ranged between 800 to 1,000 according to union officials. The union itself represents more than 12,000 Carpenters in and around Seattle and the western Washington area. Many of the union members are continuing to work due to “no-strike” agreements covering many of the large projects in the area including Seattle’s NHL arena (Seattle Kraken).

The strike commenced after 56% of union membership voted to reject a four-year contract. The

four-year contract proposed by employers included a 20.4% economic increase with retroactive pay back to June 1, 2021. The proposed agreement also included parking reimbursements and the addition of another recognized holiday.

The strike, now in its second week, has seen one of the Seattle City Councilmembers, Kshama Sawant, appearing at several locations supporting the Carpenters including several sites that have no-strike agreements. Union leadership has indicated Councilmember Sawant's entry into the strike is complicating matters as she is advocating for illegal wildcat strikes which could cost the Union resources. The Union and Employer Associations are set to return to the bargaining table this week.

### INDUSTRY NEWS

#### ***PBGC Multiemployer Plan Receives a Reprieve from Insolvency***

The Pension Benefit Guaranty Corporation (PBGC) has long been projecting the Multiemployer Insurance Program would become insolvent in 2025. The projected insolvency was due in large part to the tenuous financial situation of several multiemployer pension plans, namely the Central States Teamsters Pension Plan.

However, due to the passage of the American Rescue Plan, the PBGC has released new figures which show the median projected insolvency date is now 2055. In fact, the PBGC has indicated current premium levels for its multiemployer plan would be sufficient to continue guaranteeing benefits until the mid-2030's.

Many plans that were on the brink of insolvency are able to apply for Special Financial Assistance under the ARP. The PBGC issued an interim final rule which delineated the priority for which plans will receive assistance under the ARP. The comment period for that final rule ended in early August. The interim final rule can be found by clicking [here](#).

#### ***Bears on the Move?***

The Chicago Bears recently announced they had entered into an agreement to purchase the space currently occupied by Arlington International Racecourse for over \$190 million dollars. The Racecourse just concluded its racing season earlier this month. The space, which occupies over 320 acres, is being viewed by many as a one stop entertainment destination. The Bears lease with the City runs through 2033 but a provision in that agreement allows them to begin exit discussions in the next few years (with an exit penalty attached).

Solider Field is the smallest stadium in the NFL with a capacity of 61,500. The proximity to Lake Michigan and the fact it is an open-air stadium make it difficult to use year-round. Recent stadiums built by other pro football teams include the Los Angeles Rams/Los Angeles Chargers and Las Vegas Raiders. So-Fi Stadium (Chargers/Rams) was opened last year (2020) at a cost of \$5-\$6 billion dollars. It was built on the site of an old horse racing track. The stadium seats 70,000 people but can be expanded to seat up to 100,000. Allegiant Stadium (Raiders) cost upwards of \$2 billion

dollars to construct. The stadium can seat 65,000 (expandable to 71,000). Both So-Fi and Allegiant Stadiums were built using union labor.

Discussions surrounding a potential move have been swirling since the announcement was made. Governor Pritzker, Mayor Lightfoot, and many state Representatives and Senators have all weighed in on what support the Bears can expect (or not expect) to receive as the team navigates this situation.

### STATE OF THE ECONOMY

#### ***Economic Indicators***

Unemployment Rate	August 2021 U.S. 5.2%, Illinois 7.0% (40 <sup>th</sup> )
Labor Participation Rate	August 2021 = 61.7%, July 2021= 61.7%
CPI All Urban Consumers	August 2021 versus August 2020 = 5.25% Half 2021 versus Half 2020 = 3.37%
CPI Chicago All Items	August 2021 versus August 2020 = 4.80% Half 2021 versus Half 2020 = 3.08%
CPI Midwest All Items	August 2021 versus August 2020 = 5.70% Half 2021 versus Half 2020 = 3.68%
Union Membership	2020 10.8% (Private Sector 6.3%), 2019 = 10.3% Rate of Unionized Construction Workers = 12.6% 3.6% (2019), 13.8% (2018), 14.0% (2017)
30 Year Fixed Mortgage	August 2.84%, down 0.03% (July 2.87%) Annual Average 3.11% (2020)
15 Year Fixed Mortgage	August 2.15%, down 0.03% (December 2.18%) Annual Average 2.61% (2020)
Brent Crude Oil Price	\$78.73 per barrel (as of September 29, 2021) \$145.61 per barrel all time high July 2008 \$2.23 per barrel all time low May 1970
Privately Owned New Housing Building Permits	6.0% above revised July rate (+/-1.4%) 13.5% above August 2020 rate (+/-1.8%)
Privately Owned New Housing Starts	3.9 % above revised July rate (+/-11.3%) 17.4% above August 2020 rate (+/-12.1%)

GDP	Q2 2021 (2 <sup>nd</sup> ) +6.6%
	Q1 2021 (3 <sup>rd</sup> ) +6.3%
DJIA	31,402.01 as of February 26, 2021 (open)
	30,331.02 as of January 29, 2021 (10:08 a.m.)

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

***Supplier Committed ULP by Changing Third Party Administrators for Health Plan***

An ALJ recently found a material supplier in New Jersey committed an unfair labor practice when it unilaterally made changes to its health plan. The supplier had a contract with a Teamsters local that contained language allowing the employer to offer the same health benefits to its unionized employees as it did to its non-unionized employees. The language in the CBA gave the company the right to make unilateral changes to the health coverage so long as the changes applied to both union and non-union employees and the level of benefits remained substantially the same.

For years the company, which was self-insured, used a third-party administrator (TPA) to administer its plan. The TPA would work with a network of doctors and hospitals to ensure the company was receiving competitive pricing. The TPA would investigate the claims and then pay those that met the requirements under the plan. The company would then reimburse the TPA for those payments. The plan had a network of over 44,000 doctors in New Jersey alone with over 6,000 hospitals covered nationwide (660,000 nationwide providers).

In late 2018, prior to formal contract negotiations commencing, the company asked to speak with the Union. The company indicated it would be looking to give the union employees a \$0.25 per hour raise and it wanted to extend the agreement for a year. The company also indicated it would be changing the health plan. The parties agreed to wait until contract negotiations to discuss the raise, terms, and other issues including the change in insurance.

However, in January 2019, the company sent a letter to all its employees (including those in the union) indicating it was changing the TPA and information regarding the health plan(s) would be forthcoming. The Union attempted to gather information about these changes but was given contradictory information (which the company indicated would be corrected). In February 2019, the parties began negotiations. The main issue for the Union was the health insurance changes. The company still had not responded to the Union's request for information and details surrounding the "new" plan were still not fully explained to the union members.

The Company hosted an informational meeting in February 2019 for the union members to hear from the new TPA. The new TPA indicated "all" doctors would be in network. In the event a member's doctor was not in network the new TPA would be willing to pay the doctors in advance by credit card for services. Shortly after this meeting, in March 2019, the Union filed a ULP against the company. At that point the company again sent out information regarding the new changes to the plan which contained contradictory information. Throughout this time the parties were still in negotiations.

In May 2019, the company sent detailed information out to the union members which contained the health plan changes. The plan had already been in effect for five (5) months at this point. The May 2019 letter also indicated more changes would be coming in August 2019. During the five (5) months the plan was in place several members attempted to use their health coverage including the union steward.

The union steward testified he was one of the employees that tried to see his primary care physician during January 2019. His primary care physician's office indicated his insurance coverage was not accepted. It took 10 phone calls before the steward's primary care physician would accept his coverage. However, he was asked to sign a statement which indicated he would be responsible for any balance left after his insurance paid the claim. This "balance billing" was not part of the "old" insurance coverage.

The union steward also needed to utilize the services of a specialist for a colonoscopy. The specialist was affiliated with the primary care physician's office, but the steward was told his insurance was not accepted by the specialist. The steward then enlisted the services of the TPA to help straighten the matter out. The TPA representative communicated via email with the steward letting him know the status of the billing issue. The steward was informed by the TPA the issue should be resolved but also if they wanted to use another doctor the TPA had one for them to use. In trying to confirm the out of pocket costs for the procedure, the steward was told he should try to find another anesthesiologist that would accept his insurance to bring the cost down. In the past he was never asked to find his own anesthesiologist. He never received the colonoscopy due to the cost being so high (he previously had at least one done under the old plan).

Additionally, the steward testified his deductible doubled and his prescription costs for one of his medications increased by 5X for a 90 days supply. The union president testified that the new insurance plan also carved out the union members spouses. That is, if they were eligible under another health plan they were excluded from coverage under the Company's plan and would need to enroll in the other available plan. The new plan also covered services such as x-rays and newborn services up to 80% of the maximum allowed. The old plan covered those services 100%. Thus, there was a 20% difference plus any amount over the maximum allowed the members would be responsible for.

The company owner testified that the changes made to the health plan were not that significant. When pressed during his testimony as to some of the specific changes that were obviously substantially different, he could not recall what the changes were. He testified the company would cover the cost of any balance bill but that was never put in writing nor was that ever explicitly mentioned to the employees.

The ALJ found the company violated section 8(a)(5) and (1) of the Act and 8(d) of the Act. The company was ordered to rescind the changes to the new health plan and restore the old plan until such time the parties can bargain over the changes. The company was also ordered to make

any employees whole for any losses they suffered due to the plan changes. The ALJ’s decision can be found by clicking [here](#).

**UPCOMING SEMINARS/EVENTS**

**THE ALZHEIMERS ASSOCIATION WALK TO END ALZHEIMER’S**

JOIN THE UNION CONSTRUCTION LABOR MANAGEMENT TEAM AS THEY JOIN WITH THE ALZHEIMERS ASSOCIATION TO RAISE FUNDS AND AWARENESS FOR THIS DEVASTATING DISEASE.

DATE: SATURDAY, OCTOBER 9  
 TIME: 8:00 A.M.  
 LOCATION: SOLDIER FIELD | 1410 MUSEUM CAMPUS DRIVE CHICAGO, IL 60605  
 COST: DONATIONS ACCEPTED  
 CONTACT: TIM MARABELLA AT [TIM@GREATLAKESCA.ORG](mailto:TIM@GREATLAKESCA.ORG) OR REGISTER [HERE](#)

**CALENDAR**

OCTOBER 1	10:30 A.M.	MARBA EXECUTIVES MEETING (ONLINE)
OCTOBER 6	8:30 A.M.	OPERATING ENGINEERS JGC (LOCAL 150)
OCTOBER 20	10:30 A.M.	CEMENT MASONS LMCC (BELLWOOD)
OCTOBER 26	9:00 A.M.	LABORERS JGC (BURR RIDGE)
OCTOBER 28	9:00 A.M.	TEAMSTERS JGC (BURR RIDGE)

<sup>1</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.

*Did You Know?*

*THE VERY FIRST MCDONALD’S OPENED IN THE UNITED KINGDOM IN WOOLWICH (SOUTH OF LONDON) ON OCTOBER 1, 1974. IT IS STILL OPERATIONAL AS OF TODAY*

**THE NHL RETURNS OCTOBER 12**



**THE NBA RETURNS OCTOBER 19**

