

APR - 7 2015

BEFORE THE
LABOR AND INDUSTRIAL RELATIONS COMMISSION
JEFFERSON CITY, MISSOURI

LABOR AND INDUSTRIAL
RELATIONS COMMISSION

In the Matter of: **Objection to Annual Wage Order No. 22, Issued in March 2015, as it Pertains to the Occupational Title of "Painter" in Pemiscot County, Missouri, Which County is a Third Class Missouri County Within the Geographic Jurisdiction of the International Union of Painters and Allied Trades District Council #58**

On Behalf of: **International Union of Painters and Allied Trades District Council #58**

Objector.

OBJECTION

COMES NOW the International Union of Painters and Allied Trades District Council #58 (hereinafter "Objector" or "PDC 58"), and files its Objections to Annual Wage Order No. 22, issued in March 2015 by the Missouri Division of Labor Standards, and for its Objection states as follows:

1. Objector is an unincorporated association representing members who perform work in the construction trades and specifically under the Occupational Title of "Painter," as defined in 8 C.S.R. 30-3.060, throughout the eastern half of the State of Missouri of the type covered by Section 290.201, R.S.Mo., *et seq.* (the "Missouri Prevailing Wage Law"). These individual bargaining unit members also perform work of the type at issue in this Objection on a regular basis. Through well-established precedent, the Objector has historically been permitted to represent the interests of its members before the Labor and Industrial Relations Commission, as have other unincorporated associations, on matters of Objections to proposed Annual Wage Orders.

2. Pemiscot County is a Missouri Third Class County, as described and incorporated in the Missouri Prevailing Wage Law.

3. A review of the certified payroll submitted on a project by contractors working in Pemiscot County, Missouri reveals that the basic hourly rates and total fringe benefits in proposed Annual Wage Order No. 22 are incorrect in that they do not take into consideration those hours worked in painting in Pemiscot County, Missouri.

A. The rates in proposed Annual Wage Order No. 22 for the “Painter” Occupational Title in Pemiscot County are \$21.99 per hour, with \$10.65 fringe benefits. There is a pending motion to amend which would change the proposed Wage Order to reflect \$30.80 per hour, with \$13.56 fringe benefits.

B. In 2014, fifty-two (52) hours of work designated as “Painter” work for purposes of construction work was performed by employees of Midwest Painting & Wallcovering, Inc. within Pemiscot County at the rate of \$22.54 in wages and \$10.90 in fringe benefits. Objector is prepared to present evidence in the forms of payroll and contractor surveys to establish the following hours actually worked and the foregoing rate in Pemiscot County.

C. These rates, as described, are not only the appropriate rates, there are also workmen ready, willing and able to perform work in Pemiscot County at such rates. Such workmen, in fact, have performed such work at such rates, as evidenced in the attached documentation. Workers performed at these rates in these localities to a greater extent than work performed at the published rate in the objected to proposed Annual Wage Order, and such work has been performed to a greater extent at all times pertinent to the Annual Wage Order at issue.

D. In addition, the same review reveals the overtime and holiday schedules should be 104 and 12, respectively, in Pemiscot County, as applied to the “Painter” classification, being the only hours submitted for the relevant period for Annual Wage Order No. 22 and the Occupational

Title "Painter" were submitted pursuant to a collective bargaining agreement with these overtime and holiday schedules.

E. These fifty-two (52) hours are reflective of the objective hours that prevail in the geographic jurisdiction at issue and performed under an appropriate collective bargaining agreement.

WHEREFORE, it is respectfully requested that the Labor and Industrial Relations Commission consider favorably the Objection of Objector and revise the basic hourly rate and total fringe benefit in Pemiscot County for the "Painter" classification, as described herein, to reflect the prevailing practices throughout the geographic jurisdiction in question, and for such other changes as are deemed appropriate.

Respectfully submitted,

HARTNETT GLADNEY HETTERMAN, L.L.C.



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Attorneys for Objector

CERTIFICATE OF SERVICE

An original and two (2) copies of the foregoing were served on the Administrative Secretary, Labor and Industrial Relations Commission, 3315 West Truman Boulevard, P. O. Box 599, Jefferson City, MO 65102-0599, *via facsimile at 573-751-7806* and by UPS, and copies were served on the following individuals by placing same, postage prepaid, in the U. S. Mail this 7th day of April, 2015.

John E. Lindsey, Director
Division of Labor Standards
3315 West Truman Boulevard
P. O. Box 449
Jefferson City, MO 65102-0449

Sara Dick, Assistant Attorney General
Office of the Attorney General
Broadway State Office Building
221 West High Street, 4th Floor
P. O. Box 899
Jefferson City, MO 65102-0899





MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
CONTRACTOR'S WAGE SURVEY

PROJECT INFORMATION

Contractor's Name, Address, and Telephone Number Midwest Painting & Wallcovering 2121 Bessie Cape Girardeau, MO 63701	Please Select One: <input checked="" type="checkbox"/> Collective Bargaining Agreement Rate <input type="checkbox"/> Non-Collective Bargaining Agreement Rate County <u>Pemiscot</u>
Dates of Work Reported Below Beginning <u>1 / 1 / 2014</u> Ending <u>12 / 31 / 2014</u>	Description <u>Painting</u> Type of Construction: <input checked="" type="checkbox"/> Building <input type="checkbox"/> Heavy and Highway
E-mail _____	Website _____

Occupational Title(s)	No. of Employees	Total Hours	Basic Hourly Rate	Hourly Fringe Benefits Payments							
				H & W	Pension	Vacation	App. Tr.	Suppl.	Holiday	Other	
Painter		52	22.54	10.90	←—————→						

Certification

To the best of my knowledge, information and belief, I hereby certify that the number of hours, basic hourly rate, and fringe benefit payments listed above are true and correct and that the type of work performed by the number of employees identified above, relative to the Occupational Title(s) reported, is consistent with § CSR 30-3.060. I further recognize that any false statement or declaration made herein is punishable under Section 290.340, 570.090, 575.050, and 575.060, RSMo.

Signature of Contractor's Representative Who Prepared This Report
 Signature of Preparer of This Report

Date 04/06/2015
 Printed Name Dave Doerr
 Title PDC 58 Business Agent

Mail or fax completed form to:
 Missouri Department of Labor and Industrial Relations
 DIVISION OF LABOR STANDARDS
 Attn: Prevailing Wage Section
 P.O. Box 449
 Jefferson City, MO 65102-0449

Contact Information:
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