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The impact of legislation in Long Island on competition and costs of construction



Ruth Mulford

The commercial real estate market in Long Island is being challenged by many forces. Two of these forces are "prevailing wage" and "apprenticeship laws." Many current and planned future commercial projects on Long Island have imposed the "prevailing rate."

In New York State, "prevailing wages" are the hourly rates a worker receives in wages and benefits based on union wage levels for a particular trade. The term "prevailing" would seem to imply that the amount is based upon the average hourly wage paid a worker in a particular trade at a particular location. This is not, however, the case in Long Island since 75% of the construction workforce is merit shop and does not pay prevailing rates. These types of agreements restrict the ability of merit shop companies to bid such projects. For every bidder lost on a job, the cost of the project increases by 3%. Recent studies have shown projects requiring prevailing wage can cost as much as 17-35% more than those without such an agreement.

The issue of apprenticeship has had a significant effect on both the public and private commercial construction market in Long Island. Mandatory apprenticeship laws have evolved in many parts of New York State. The main reason for enacting this type of legislation has been that if apprentices go thru a mandatory, NYS-DOL registered apprenticeship program, they will be safer workers. Merit shop companies must go through a lengthy process, (often 4-6 months) to gain approval to sponsor an apprentice. Very few merit shop companies (less than 100 in Long Island) are able to bid where a mandatory apprenticeship law is enacted. Most of the buildings on Long Island were built without mandatory apprentice programs. Many municipalities in Long Island have adopted this

type of legislation without fully understanding the financial impact of such a decision. Also, there are local, state and federal regulatory agencies who already are charged with overseeing "safe and code compliant code enforcement."

In the past 18 months two towns on Long Island (Huntington and Oyster Bay) have enacted legislation requiring developers to prove all their subcontractors have registered apprenticeship programs before they are granted a building permit. This applies to private buildings over 100,000 s/f.

Huntington passed this law and the impact was immediately felt. A long time developer within the town was unable to hire over 30 local subcontractors he had used for years. Recently he reported that, as a result of being forced to use only subcontractors with "registered apprenticeship programs," the project bottom line has already increased more than \$2 million over the original cost estimate.

Next came mandatory apprenticeship for the Town of Oyster Bay. Again, the law was based upon the premise that it would make building projects safer. The phrase "or a collection of buildings" was added to the 100,000 s/f threshold. Here the law could be applied to a gated community project, a strip mall or any small multi-building project. At almost the exact minute Oyster Bay was voting on the apprenticeship legislation, Governor Spitzer was announcing a 1 year moratorium on the approval of new apprentice programs. Only 5 merit shop companies have apprenticeship programs within the Town of Oyster Bay. Other local Oyster Bay merit shop companies will be unable to bid large private projects in the township in which they live and pay taxes. Because of the moratorium, this number will not change in the foreseeable future.

Associated Builders and Contractors, Inc. (ABC) is a nationwide organization representing more than 24,000 companies from all aspects of construction. The Long Island/Metro Region of ABC has a membership of over 150 companies. Formed nearly 8 years ago, the LI/Metro Region quickly established itself as one of the fastest growing in the U.S. Membership includes all types of companies involved with construction. This diversity is part of what makes the organization so attractive. Members work together using each others services to solve common problems. These companies believe in the "merit shop" philosophy. At the core of this philosophy is the belief in open competition and a free enterprise approach to bidding. The company with the lowest bid, able to complete the job on time and safely, should be awarded the project, based on merit.

Long Island/Metro ABC is currently leading the fight against unfair and often corrupt labor practices by:

- * Keeping the public and contractor community informed
- * Lobbying efforts at the local, state and national levels/Legal Advocacy/Employee Benefits
- * Providing training in management, safety, workforce development
- * Contractor referral services that connect contractors with developers.

For more information regarding ABC, visit www.abc.org or www.abcnys.org.

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