

Prevailing Winds Tilt Against Mayor In Skilled-Trades Case

By DAVID SIMS | Posted: Monday, June 3, 2013 5:00 pm

Mayor Bloomberg's effort to strip municipal skilled-trades workers of prevailing-wage rights May 28 was blocked by the State Appellate Division, unanimously upholding a lower-court decision that his unilateral move was arbitrary and capricious.

The Appellate Division's short decision said the Bloomberg administration had failed to comply with several Civil Service Law statutes in implementing the change, "i.e. notice, a public hearing, and approval by the State Civil Service Commission."

'They Violated the Law'

"The Bloomberg administration violated the law, and unfortunately we have to go this route, but lately this seems to be the path everyone has to take," Service Employees International Union Local 246 President Joseph Colangelo, who represents 1,500 city Auto Mechanics, said in a phone interview. "We can't sit down and negotiate face to face; we have to meet in court."

When he issued the executive order mandating that skilled-trades workers negotiate pay raises rather than have them set by a prevailing-wage survey done by the City Comptroller, the Mayor's Office argued it was not making a significant change, just taking away the Comptroller's unilateral power to decide the salary of one group of workers.

The unions' umbrella organizations, including the Municipal Labor Committee and AFL-CIO New York City Central Labor Council, joined a lawsuit with many other skilled-trades unions saying that the Mayor had made no effort to negotiate the change.

"There was no prior discussion with unions—the Mayor signed an Executive Order and we were notified," Mr. Colangelo said. "In the Executive Order, it changed the benefits for those new hires, reducing their sick days from 12 to six; it changed the way the holidays would be paid, so that if a holiday fell on a Saturday or Sunday you wouldn't receive it."

\$6G in Reduced Benefits

"It equated to over \$6,000 a year in reduced benefits alone," he continued. "Like I said, it was reassuring that the courts agreed with us. Moving forward I would hope we don't have to revisit this issue again."

District Council 37 Local 376 Secretary-Treasurer Thomas Kattou added, "There's a process that needs to be followed. City Hall can't just pick up a pen and issue two Executive Orders

unilaterally that change the lives of 10,000 prevailing-rate workers.”

The city immediately appealed when Manhattan Supreme Court Justice Manuel J. Mendez struck down the Executive Order. Justice Mendez pointed out that the order would significantly cut wages and benefits for the affected workers and found it had no rational basis, calling it “arbitrary and capricious.”

“We strongly feel that both the lower and mid-level courts are misapplying what is, in fact, a straightforward application of the Civil Service Law,” said Assistant Corporation Counsel Georgia Pestana in a statement. “The Mayor was well within his authority in taking this common-sense action, and we are appealing. In fact, dozens of cities and towns in New York State have done the same thing.”

An appeal of the Appellate Division’s ruling will be harder, as unanimous decisions can only be appealed to the New York State Court of Appeals, the state’s highest judicial body, if it gives its consent.