

MEMORANDUM

Date: March 7, 2018

To: Illinois Bar Association – State And Local Tax Section Council (ISBA – SALT)
Illinois Property Tax Lawyer's Association (IPTLA)
Association of Industrial Real Estate Brokers (AIRE)
Illinois Realtors / Chicago Association of Realtors
South Suburban Mayors & Managers Association (SSMMA)
Calumet Area Industrial Commission (CAIC)
Chicago Southland Economic Development Corporation

CC: Mark Davis / O'Keefe Lyons & Hynes

From: John P. Nyhan

JPN

Re: Pending amendment to add "Prevailing Wage Requirement" & "Labor Apprenticeship Program" to incentive classification.

On January 17, 2018 Cook County Commissioners Tobolski, Arroyo, and Moody proposed an amendment to the Cook County Real Property Assessment Classification Ordinance ("Classification Ordinance"), Chapter 74, Sec. 74-71 "Laws regulating payment of wages". At the Finance Committee meeting of March 1, 2018, the sponsors substituted an amended version of the proposed change. This proposed change seeks to add a "prevailing wage" and a "labor apprentice" component to Sec. 74-71 of the Classification Ordinance (Proposed Ordinance 18-1604, as amended, is attached, *see* page 6 of 13).

During the Finance Committee meeting of March 1st, approximately fifty + people testified in opposition to the matter including numerous mayors, managers and development officers from various jurisdictions in the County. Other opponents included property owners, business owners, real estate associations, developers, and other concerned citizens. In support, three people spoke on behalf of union groups.

During this committee hearing, no evidence or testimony was provided to demonstrate that the proposed change would support or encourage economic development in Cook County. To the contrary, all testimony provided clearly demonstrated that the proposed change would hinder economic development in the County. Even worse, the proposed change would devastate any economic development in the southern portion of the County. Nevertheless, the Finance Committee advanced the matter for a vote by the Board of Commissioners, now scheduled for March 14, 2018.

For the reasons stated herein, I encourage your organization to join with other interested parties to strongly oppose the enactment of the proposed amendment.

The proposed amendment does nothing to promote economic development. Instead, as demonstrated by the overwhelming number of mayors, managers and other citizens who testified in opposition, the proposed change will greatly impede economic development in Cook County; due to the added costs, administrative burdens and uncertainty the change imposes on those seeking assistance through the County Incentives Programs.

Proponents of the pending change justify the additional burdens placed on developers by making the false claim that these developers are receiving taxpayer funds which could be spent to support other worthy needs in the community. Therefore, such property owners and developers should be obligated to pay above market wages. **The incentive programs at issue here do not cause taxpayer funds to be handed over to property owners.** This is not a case where government is giving up money that it could possibly spend elsewhere in the community.

Instead, the benefits of the incentive flows from property development that otherwise would not occur without the help provided by the 10% level of assessment placed on incentive properties. Normally, such commercial industrial property is assessed at 25% of market value. Incentive properties would not be built “but for” the benefit of the lower level of assessment and the lower tax burden it provides. In short, 10% of something is better than 25% of nothing. There are no “winners” and “losers” in the incentive programs and government funds are not directed away from one group to benefit another. Therefore, the rationale in support of the proposed change is faulty and the proposed amendment should be rejected.

The amendment, as written, raises the following concerns:

1. Prevailing wage obligation will further complicate an already complex structure bringing additional cost and uncertainty that will deter economic development that is not feasible without the benefit of the incentive classification. This conflicts with the underlying policy upon which the incentives were created, which is to promote the expansion of the tax base by supporting economic development that could not occur.
2. Clear majority of input provided thus far from concerned constituencies is strongly opposed to the proposed change as it stifles economic development, where it is needed the most.
3. Proposed amendment is too broadly drafted as prevailing wage must be paid not only for activities related to new construction, but must also be paid for all work on any improvement receiving a property tax incentive. As such, it is drafted to cover not only the initial development but all work occurring thereafter. In addition, the proposed change requires prevailing wage to be paid for any maintenance or repair work done to any equipment at the property. Not only does this raise an additional obligation after the initial development, but more troubling it adds a personal property obligation to

legislation regarding real estate taxation. Such drafting is unwise as personal property is not subject to taxation in Illinois and therefore should not be included in legislation regarding real estate tax.

4. Proposed amendment contains requirement for retention of a significant amount of employee, wage and hours information to establish compliance. In addition, there is an obligation to file monthly reports with the County Bureau of Economic Development. This regulatory and reporting obligation pushes additional cost onto property owner as well as the Bureau of Economic Development.
5. Proposed amendment also adds a requirement that any improvement activities **occurring at the subject property after obtaining the incentive**, must be under-taken by an entity participating in the US Dept. of Labor Apprenticeship program. Once again creating an obligation to follow the property after the initial development is completed. Also, creates additional expense and reporting obligation; thereby making development incentives less desirable. Unclear why this issue is being raised as a similar requirement for class 8 property was repealed in 2017, due to concerns that it impaired economic development in southern townships

New Burdens and Obligations Counterproductive to Economic Development

Although the prevailing rate of wages paid for public works in Cook County is not identified in the amendment, such prevailing wages would be greater than minimum wage levels set by government, and greater than market rates; as the inverse would make no sense. Published reports also confirm that “prevailing wages” for public works typically exceed those paid in the private market. As such, it appears that the public policy behind this proposed amendment is to raise the wages for workers interacting with the incentive classifications. This obligation, in combination with some of the reporting requirements also contained in the proposed amendment, would increase the cost to develop and maintain property qualifying for incentive classifications.

Increasing the cost of economic development conflicts with the original reason for the creation of the incentive classes. These development classifications were created based on the public policy that the reduced property tax provided by the incentive allows for development that otherwise would not be economically feasible. By making such development economically feasible, via incentive classification, government benefits through the expansion of its real estate tax base. The public benefits as well due to fact that taxes are spread out over this larger tax base, thereby reducing the individual load.

In many cases, the added cost of the proposed prevailing wage requirement will cause potential economic development projects to no longer be economically viable, thus deterring economic growth where it is needed the most. Such outcomes would be counterproductive. **Indeed, loss of potential development projects would work against the very workers the proposed amendment seeks to help.**

The testimony provided to the Finance Committee, in opposition to the proposed change, made it crystal clear that the burdens and uncertainty that come with the prevailing wage requirement will greatly damage future development in the County, especially in the southern suburbs. Much of this testimony was provided by mayors from local municipalities as well as their development staff. These are the people best positioned to understand the negative impact that the proposed amendment would have on their ability to promote economic growth in their geographic area. Their collective voices in opposition should be given great weight and should be enough to stop this proposed change from being enacted.

Too Broad – Applies to Non-Development Activities / Includes Personal Property

The prevailing wage requirement is to be applied to “Construction” activities occurring at the subject property. The term “**Construction**” is defined to mean “all work on any newly constructed building or improvement or renovation on any existing building or structure, on any real estate receiving a property tax incentive involving laborers, workers or mechanics..... This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.” 74-17(b)(4)(b).

Proponents of the pending change claim that the additional obligations they now propose will only apply to the initial development and will not burden the property after construction is complete. This is simply not true given the way the definition of “Construction” is drafted as it covers all work on any existing building or structure located on real estate receiving a property tax incentive. As drafted, the obligations follow the property after initial development activities. This is true as well for the apprentice program portion of the amendment, which applies to any work occurring after the property receives the tax incentive.

Such a broad application of the prevailing wage component not only adds to the cost of the underlying development; it then then continues to burden the property after achieving the incentive classification.

Onerous Record Keeping and Reporting Obligation

Sec. 74-71 (b)(5)(a)&(b) requires that certain records regarding the payment of a prevailing wage be maintained and that a monthly report regarding the same be filed with the County Bureau of Economic Development. These records are to be kept for a period of 5 years and are to include a significant amount of information as to wages, workers and their social security numbers, hours etc. This record keeping obligation will only act to increase the cost associated with a proposed development.

Given recent budgetary constraints and the resulting limits on manpower and other resources, is the County Bureau of Economic Development adequately resourced to accept and review 12 reports a year for every incentive property in the County? Does the County Bureau of Economic Development have adequate protocols in place to safe guard sensitive information (including social security numbers) as to every worker that interacts with

every incentive property in the County? Even if such resources are available, would they be better deployed to support other County efforts to benefit the public?

Resurrects US Dept. of Labor Apprentice Program and Broadens Its Application

Finally, the prevailing wage amendment also includes a provision that requires all “Construction” occurring at the subject, **after receipt of the incentive**, must be undertaken by entities that participate in an “active apprenticeship and training program approved and registered with the United States Department of Labor’s Office of Apprenticeship.” Sec 74-71(b)(6). This obligation appears to echo a similar requirement the County Board first enacted (Class 8 only), but then later repealed. It is unclear why this issue is back.

On June 8, 2016, the Cook County Board of Commissioners approved Ordinance Number 16-3191, which imposed similar apprentice obligations, but only regarding Class 8 incentive property. Thereafter, numerous local municipal officials, including the South Suburban Mayors and Managers Association, raised objections to this obligation; due in part to the negative impact the obligation had on proposed economic developments in their jurisdictions. In response to this advocacy by concerned local officials, the County Board repealed the apprentice obligations as to class 8. (see Ordinance Number 17-4339, enacted July 19, 2017). Given the back-lash that resulted in this repeal, it makes little sense for the County Board to now propose to bring this program back and to do so on an expanded basis.

Recommendation

For the reasons stated above, interested parties should oppose the pending prevailing wage and apprentice program amendment to the Cook County Classification Ordinance.



**Board of Commissioners of Cook County
Minutes of the Finance Committee**

11:30 AM

Thursday, March 1, 2018

**Cook County Building, Board Room,
118 North Clark Street, Chicago, Illinois**

ATTENDANCE

Present Chairman Daley, Vice Chairman Sims, Commissioners Arroyo, Boykin, Deer, Fritchey, Gainer, Goslin, Moody, Moore, Morrison, Schneider, Silvestri, Suffredin and Tobolski (15)

Absent Commissioner Butler and García (2)

Also Present: Joshua Myers - National tax expert/lead researcher of CCA Report
Brian Fabes - CCA CEO
Rasmus Lynnerup - Principal Civic Consulting Alliance
Thomas Jaconetty - Deputy Assessor of Valuations and Appeals

PUBLIC TESTIMONY

Chairman Daley asked the Secretary to the Board to call upon the registered public speakers, in accordance with Cook County Code.

See attachment

18-1604

Sponsored by: JEFFREY R. TOBOLSKI, LUIS ARROYO JR, EDWARD M. MOODY, RICHARD R. BOYKIN, DEBORAH SIMS, JOHN A. FRITCHEY, DENNIS DEER and STANLEY MOORE, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

PROPERTY TAX INCENTIVE - PREVAILING WAGE REQUIREMENT

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74 TAXATION, Section 74-71 of the Cook County Code is hereby amended as follows:

Sec. 74-71. - Laws regulating the payment of wages.

(a) Living wage requirement.

- (1) Unless expressly waived by the County Board, any Employer occupying a property that receives a property tax incentive for Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property shall pay not less than the Living Wage, as defined in the Cook County Procurement Code (Cook County, Ill., Code, Ch. 34, Art. IV, Div. 1 § 34-121), to each of its onsite Employees, unless such Employees' Wages are governed by Federal or State prevailing wage law. For purpose of this Section, the term "Employee" shall mean an Employee who performs duties or services for an Employer on average at least 30 hours per week in any two-week period for which the Employee is paid; "hours per week" shall mean hours for which an Employee is paid or entitled to payment by the Employer for a period of time during which no duties are performed by the Employee due to vacation, holiday, illness, incapacity, jury duty, military duty or approved leave of absence.
- (2) On and after July 1, 2020, the owner of any property that receives a property tax incentive shall notify all Employers who occupy such property as lessees of the requirements of this Section. Upon commencement of a lease, on or after July 1, 2020, of a property that receives a property tax incentive, any new lessee shall be required to submit to the municipality or the Cook County Board, as the case may be, an affidavit stating that such lessee is paying a Living Wage to its Employees in compliance with this Section. Notwithstanding anything herein to the contrary, the requirements of this Section shall not apply to an Employer who was a lessee and not an owner-occupant of a property that receives a property tax incentive prior to July 1, 2020.
- (3) This Section shall not apply to Employers that are not-for-profit organizations or funded by Federal grants or Federal loans or Employers who are lessees but are not owners of a property that receives a property tax incentive prior to adoption of this amended Ordinance. Further, this Section shall not apply to Employers who can demonstrate to the County Board that compliance with the requirements of this Section would cause such Employer to be in violation of the terms of a collective bargaining agreement between the Employer and a labor union.
- (4) Every Employer required to pay the Living Wage shall notify its Employees of the Living Wage requirements and shall notify all of its Employees annually of any adjustment to the Living Wage. In addition, the Employer shall notify its Employees that if any Employee contends that the Employer is not paying a Living Wage or has otherwise violated this section, that Employee may file a complaint with the Cook County Commissioner on Human Rights ("Commission"). The Commissioner shall investigate alleged violations of the Living Wage Ordinance and is authorized to adopt regulations for the proper administration and enforcement of its provisions. If at the conclusion of the Commission's investigation, the Commission finds that the Employer has violated this section, it shall (i) in the case of an Employer receiving a property tax incentive, notify the Assessor; or (ii) in the case of a Contractor or a subcontractor required to pay the Living Wage, notify the CPO, who shall exercise such remedies as are in the best interest of the County, including ordering the Employer to pay back pay and penalties, as provided in this section.
- (5) If an Employer is found to be in violation of this section, such Employer may be required to pay back pay to each affected Employee, and may also be fined by the County up to \$100.00 for each affected Employee for each day paid at less than the Living Wage. Such penalties will not

be imposed on any Person except after a hearing (Cook County, Ill., Code, Ch. 2, Art. IX). Further, if an Employer is found to be in violation of this section, the property tax incentive for this property is subject to revocation.

- (6) If an Employer is found to have retaliated against an affected Employee, the Employer's property tax incentive may be terminated unless such Employer appropriately reinstates or compensates such Employee.

- (7) For the purposes of this Section:

Property tax incentive means a reduction in the assessment level as set forth in Division 2 of this Article for Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property. "Property tax incentive" shall not include a Class 9 designation granted to supportive living facilities, which establish an alternative to nursing home care for low income older persons and persons with disabilities under Medicaid and which are certified by the State Department of Public Aid pursuant to Division 2 of this Article; and

Sales tax means the Retailer's Occupation Tax, the Service Occupation Tax and/or the Use Tax.

- (8) Living Wage Affidavit. Every municipality or the Cook County Board that provides a Resolution or Ordinance or authorized officer letter, as the case may be, to an applicant for a Class 6b industrial property or a Class 8 industrial property tax incentive shall maintain in its files and records documentation that such municipality or the County Board received and filed the Living Wage Affidavit submitted by the owner or lessee of such property stating that such owner or lessee is paying a Living Wage to its Employees in compliance with this Section. Further, an applicant or lessee of a Class 9 multifamily residential property tax incentive shall provide the municipality or the Cook County Board, as the case may be, a Living Wage Affidavit which shall be maintained by such municipality or the Cook County Board in its files and records.

(b) Prevailing wage requirement.

- (1) Any owner of real estate that on or after January, 2018 is an applicant for, or recipient of, any Property Tax Incentive under any Assessment Class as set forth in Division 2 of this Article for which a Resolution or Ordinance from the municipality or the County Board is or was required, or where an authorized officer letter is or was obtained in lieu of such Resolution or Ordinance, shall pay all laborers, workers and mechanics engaged in Construction work within, or relating to Construction projects within, the subject property not less than the prevailing rate of wages paid for work of a similar character on public works in Cook County. This requirement extends to all contractors, subcontractors, and lessees who perform such Construction work, whether or not at the direction of the owner.
- (2) The prevailing rate of wages shall be the same as the then-current rate for Cook County determined pursuant to the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et seq.).
- (3) (a) Unless otherwise defined herein, the definition of any terms used in this Section which are

also used in the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et seq.) shall be the same as that set forth in the Illinois Prevailing Wage Act.

(b) For the purposes of this Section:

Property Tax Incentive means a reduction in the assessment level as set forth in Division 2 of this Article for any property regardless of the Assessment Class.

Construction means all work on any newly constructed building or structure, or any alteration, improvement, repair, renovation, rehabilitation, demolition, deconstruction, maintenance, or reconstruction of existing building or structure, regardless of the public or private nature of the projects or ownership.

(4) Any owner of real estate that on or after January __, 2018 is an applicant for, or recipient of, any Property Tax Incentive under any Assessment Class as set forth in Division 2 of this Article for which a Resolution or Ordinance from the municipality or the County Board is or was required, or where an authorized officer letter is or was obtained in lieu of such Resolution or Ordinance, shall:

(a) keep, or cause a contractor, subcontractor, or lessee performing the Construction work to keep, for a period of 5 years from the date of the last payment made, records of all laborers, mechanics, and other workers engaged in Construction work within, or relating to Construction projects within, the subject property; the records shall include (i) the worker's name, (ii) the worker's address, (iii) the worker's telephone number when available, (iv) the worker's social security number, (v) the worker's classification or classifications, (vi) the worker's gross and net wages paid in each pay period, (vii) the worker's number of hours worked each day, (viii) the worker's starting and ending times of work each day, (ix) the worker's hourly wage rate, (x) the worker's hourly overtime wage rate, (xi) the worker's hourly fringe benefit rates, (xii) the name and address of each fringe benefit fund, (xiii) the plan sponsor of each fringe benefit, if applicable, and (xiv) the plan administrator of each fringe benefit, if applicable; and

(b) no later than the 15th day of each calendar month file, or cause a contractor, subcontractor, or lessee performing the Construction work to file, with Cook County a certified payroll for the immediately preceding month. A certified payroll must be filed for only those calendar months during which such Construction work has occurred. The certified payroll shall consist of a complete copy of the records identified in this subsection (a), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the owner or an officer, employee, or agent of the owner which avers that: (i) he or she has examined the certified payroll records required to be submitted by this Section and such records are true and accurate; and (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Section. An owner is not prohibited from relying on the certification of a contractor, subcontractor, or lessee provided the owner does not knowingly rely upon a false certification. Cook County shall keep the records submitted in accordance with this subsection (b) for a period of 5 years from the date of the last payment for Construction work. The records submitted in accordance with this subsection (b) shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. Cook County shall accept any reasonable submissions that meet the requirements of this Section.

(5) The recipient must provide credible evidence that, at all times after it receives and maintains any tax incentive designation under Division 2 of this Article, if any Construction, occurs at the subject property, then any contractors, subcontractors, or lessees who perform such work must participate in an active apprenticeship and training program approved and registered with the United States Department of Labor's Office of Apprenticeship, if the contractor or subcontractor employs people in a covered occupation.

(6) Prevailing Wage Affidavit. Every municipality or the Cook County Board that provides a Resolution or Ordinance or authorized officer letter, as the case may be, to an applicant for, or a recipient of, any Property Tax Incentive as set forth in Division 2 of this Article shall maintain in its files and records documentation that such municipality or the County Board received and filed the Prevailing Wage Affidavit submitted by the owner of such property stating that such owner shall pay, or cause a contractor, subcontractor, or lessee to pay, the prevailing rate of wages in compliance with this Section and comply with subsections (b)(4) and (b)(5) of this Section. The failure to file such affidavit and supporting documents within the time established by the Assessor's rules shall result in the loss of the incentive for the period relating to the non-filing or revocation under Section 74-73.

(b)(c) State or Federal Laws.

- (1) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if, during the five-year period prior to the date of the application, such Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., the Illinois Prevailing Wage Act, 820 ILCS 130/1 et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.
- (2) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) who seeks a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) has not violated the statutory provisions identified in Subsection (a) of this Section.
- (3) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated

or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five-year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.

Effective date: This ordinance shall be in effect immediately upon adoption.

A motion was made by Commissioner Tobolski, seconded by Commissioner Arroyo, to accept as substituted 18-1604. The motion carried by the following vote:

Ayes: Chairman Daley, Vice Chairman Sims, Commissioners Arroyo, Boykin, Deer, Fritchey, Gainer, Goslin, Moody, Moore, Morrison, Schneider, Silvestri, Suffredin and Tobolski (15)

Absent: Commissioners: Butler and García (2)

SUBSTITUTE 18-1604

Sponsored By: JEFFREY R. TOBOLSKI, LUIS ARROYO JR., RICHARD R. BOYKIN, EDWARD M. MOODY, County Commissioners

PROPOSED ORDINANCE AMENDMENT

PROPERTY TAX INCENTIVE – PREVAILING WAGE REQUIREMENT

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74 TAXATION, Section 74-71 of the Cook County Code is hereby amended as follows:

Sec. 74-71. - Laws regulating the payment of wages.

(a) Living wage requirement.

- (1) Unless expressly waived by the County Board, any Employer occupying a property that receives a property tax incentive for Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property shall pay not less than the Living Wage, as defined in the Cook County Procurement Code (Cook County, Ill., Code, Ch. 34, Art. IV, Div. 1 § 34-121), to each of its onsite Employees, unless such Employees' Wages are governed by Federal or State prevailing wage law. For purpose of this Section, the term "Employee" shall mean an Employee who performs duties or services for an Employer on average at least 30 hours per week in any two-week period for which the Employee is paid; "hours per week" shall mean hours for which an Employee is paid or entitled to payment by the Employer for a period of time during which no duties are performed by the Employee due to vacation, holiday, illness, incapacity, jury duty, military duty or approved leave of absence.
- (2) On and after July 1, 2020, the owner of any property that receives a property tax incentive shall notify all Employers who occupy such property as lessees of the requirements of this Section. Upon commencement of a lease, on or after July 1, 2020, of a property that receives a property tax incentive, any new lessee shall be required to submit to the municipality or the Cook County Board, as the case may be, an affidavit stating that such lessee is paying a Living Wage to its Employees in compliance with this Section. Notwithstanding anything herein to the contrary, the requirements of this Section shall not apply to an Employer who was a lessee and not an owner-occupant of a property that receives a property tax incentive prior to July 1, 2020.
- (3) This Section shall not apply to Employers that are not-for-profit organizations or funded by Federal grants or Federal loans or Employers who are lessees but are not owners of a property that receives a property tax incentive prior to adoption of this amended Ordinance. Further, this Section shall not apply to Employers who can demonstrate to the County Board that compliance with the requirements of this Section would cause such Employer to be in violation of the terms of a collective bargaining agreement between the Employer and a labor union.
- (4) Every Employer required to pay the Living Wage shall notify its Employees of the Living Wage requirements and shall notify all of its Employees annually of any adjustment to the Living Wage. In addition, the Employer shall notify its Employees that if any Employee contends that the Employer is not paying a Living Wage or has otherwise violated this section, that Employee may file a complaint with the Cook County Commissioner on Human Rights ("Commission"). The Commissioner shall investigate alleged violations of the Living Wage Ordinance and is authorized to adopt regulations for the proper administration and enforcement of its provisions. If at the conclusion of the Commission's investigation, the Commission finds that the Employer has violated this section, it shall (i) in the case of an Employer receiving a property tax incentive, notify the Assessor; or (ii) in the case of a Contractor or a subcontractor required to pay the Living Wage, notify the CPO, who shall exercise such remedies as are in the best interest of the County, including ordering the Employer to pay back pay and penalties, as provided in this section.
- (5) If an Employer is found to be in violation of this section, such Employer may be required to pay back pay to each affected Employee, and may also be fined by the County up to \$100.00 for each affected Employee for each day paid at less than the Living Wage. Such penalties will not be imposed on any Person except after a hearing (Cook County, Ill., Code, Ch. 2, Art. IX). Further, if an Employer is found to be in violation of this section, the property tax incentive for this property is subject to revocation.

- (6) If an Employer is found to have retaliated against an affected Employee, the Employer's property tax incentive may be terminated unless such Employer appropriately reinstates or compensates such Employee.

- (7) For the purposes of this Section:

Property tax incentive means a reduction in the assessment level as set forth in Division 2 of this Article for Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property. "Property tax incentive" shall not include a Class 9 designation granted to supportive living facilities, which establish an alternative to nursing home care for low income older persons and persons with disabilities under Medicaid and which are certified by the State Department of Public Aid pursuant to Division 2 of this Article; and

Sales tax means the Retailer's Occupation Tax, the Service Occupation Tax and/or the Use Tax.

- (8) Living Wage Affidavit. Every municipality or the Cook County Board that provides a Resolution or Ordinance or authorized officer letter, as the case may be, to an applicant for a Class 6b industrial property or a Class 8 industrial property tax incentive shall maintain in its files and records documentation that such municipality or the County Board received and filed the Living Wage Affidavit submitted by the owner or lessee of such property stating that such owner or lessee is paying a Living Wage to its Employees in compliance with this Section. Further, an applicant or lessee of a Class 9 multifamily residential property tax incentive shall provide the municipality or the Cook County Board, as the case may be, a Living Wage Affidavit which shall be maintained by such municipality or the Cook County Board in its files and records.

(b) Prevailing wage requirement.

- (1) Notwithstanding anything contained in Section 74-71(b) to the contrary, and for the avoidance of doubt, any real estate granted any Property Tax Incentive under any Assessment Class as set forth in Section 74-71(b)(4)(b) on or before July 1, 2018 shall not be subject to the terms and conditions of Section 74-71(b). Real estate for which an application for any classification is filed with the Assessor on or before July 1, 2018 and which thereafter is determined by the Assessor to be eligible for the classification under the terms and conditions of this Division after July 1, 2018, shall not be subject to the terms and conditions of Section 74-71(b).
- (2) Any owner of real estate that on or after July 1, 2018 is an applicant for, or recipient of, any Property Tax Incentive under any Assessment Class as set forth in Division 2 of this Article for which a Resolution or Ordinance from the municipality or the County Board is or was required, or where an authorized officer letter is or was obtained in lieu of such Resolution or Ordinance, shall pay all laborers, workers and mechanics engaged in Construction work within the subject property not less than the prevailing rate of wages paid for work of a similar character on public works in Cook County. This requirement extends to all contractors, subcontractors, and lessees who perform such Construction work, whether or not at the direction of the owner.
- (3) The prevailing rate of wages shall be the same as the then-current rate for Cook County determined pursuant to the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et seq.).

(4) (a) Unless otherwise defined herein, the definition of any terms used in this Section which are also used in the Illinois Prevailing Wage Act (820 ILCS 130/0.01 et seq.) shall be the same as that set forth in the Illinois Prevailing Wage Act.

(b) For the purposes of Section 74-71(b):

Property Tax Incentive means a reduction in the assessment level as set forth in Division 2 of this Article for any property regardless of the Assessment Class for which a Resolution or Ordinance from the municipality or the County Board is or was required, or where an authorized officer letter is or was obtained in lieu of such Resolution or Ordinance.

Construction work means all work on any newly constructed building or any improvement or renovation on any existing building or structure, on any real estate receiving a property tax incentive involving laborers, workers or mechanics, regardless of the public or private nature of the project. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

(5) Any owner of real estate that on or after July 1, 2018 is an applicant for, or recipient of, any Property Tax Incentive under any Assessment Class as set forth in Division 2 of this Article for which a Resolution or Ordinance from the municipality or the County Board is or was required, or where an authorized officer letter is or was obtained in lieu of such Resolution or Ordinance, shall:

(a) keep, or cause a contractor, subcontractor, or lessee performing the Construction work within the subject property to keep, for a period of 5 years from the date of the last payment made, records of all laborers, mechanics, and other workers engaged in Construction work within the subject property. Such records shall include (i) the worker's name, (ii) the worker's address, (iii) the worker's telephone number when available, (iv) the worker's social security number, (v) the worker's classification or classifications, (vi) the worker's gross and net wages paid in each pay period, (vii) the worker's number of hours worked each day, (viii) the worker's starting and ending times of work each day, (ix) the worker's hourly wage rate, (x) the worker's hourly overtime wage rate, (xi) the worker's hourly fringe benefit rates, (xii) the name and address of each fringe benefit fund, (xiii) the plan sponsor of each fringe benefit, if applicable, and (xiv) the plan administrator of each fringe benefit, if applicable; and

(b) no later than the 15th day of each calendar month file, or cause a contractor, subcontractor, or lessee performing the Construction work to file electronically with the Cook County Bureau of Economic Development a certified payroll for the immediately preceding month. A certified payroll must be filed for only those calendar months during which such Construction work has occurred. The certified payroll shall consist of a complete copy of the records identified in this subsection (a) but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the owner or an officer, authorized employee, or agent of the owner which avers that: (i) he or she has examined the certified payroll records required to be submitted by this Section and such records are true and accurate; and (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Section. An owner is not prohibited from relying on the certification of a contractor, subcontractor, or lessee provided the owner does not knowingly rely upon a false certification. Cook County shall keep the records submitted in accordance with this subsection

(b) for a period of 5 years from the date of the last payment for Construction work. The records submitted in accordance with this subsection (b) shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. Cook County shall accept any reasonable submissions that meet the requirements of this Section.

(6) The recipient must provide credible evidence that, at all times after it receives and maintains any tax incentive classification under Division 2 of this Article, if any Construction work, occurs at the subject property, then any contractors, subcontractors, or lessees who perform such work must participate in an active apprenticeship and training program approved and registered with the United States Department of Labor's Office of Apprenticeship, if the contractor or subcontractor employs people in a covered occupation.

(7) Prevailing Wage Affidavit. Every municipality or the Cook County Board that provides a Resolution or Ordinance or authorized officer letter, as the case may be, to an applicant for, or a recipient of, any Property Tax Incentive as set forth in Section 71-74 (b)(4)(b) shall maintain in its files and records documentation that such municipality or the County Board received and filed the Prevailing Wage Affidavit submitted by the owner of such property stating that such owner shall pay, or cause a contractor, subcontractor, or lessee to pay, the prevailing rate of wages in compliance with this Section and comply with subsections (b)(5) and (b)(6) of this Section. The failure to file such affidavit and supporting documents within the time established by the Assessor's rules shall result in the loss of the incentive for the period relating to the non-filing or revocation under Section 74-73.

~~(b)~~(c) State or Federal Laws.

(1) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if, during the five-year period prior to the date of the application, such Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., the Illinois Prevailing Wage Act, 820 ILCS 130/1 et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(2) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) who seeks a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) has not violated the statutory provisions identified in Subsection (a) of this Section.

(2) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., the Illinois Prevailing Wage Act, 820 ILCS 130/1 et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five-year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Cook County, Ill., Code, Ch. 34, Art. V § 34-367) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.

Effective date: This ordinance shall be in effect immediately upon adoption.

No action taken as substituted

18-2142

Sponsored by: BRIDGET GAINER, TONI PRECKWINKLE (President), LUIS ARROYO JR, RICHARD R. BOYKIN, JERRY BUTLER, JOHN P. DALEY, DENNIS DEER, JOHN A. FRITCHEY, GREGG GOSLIN, EDWARD M. MOODY, STANLEY MOORE, SEAN M. MORRISON, TIMOTHY O. SCHNEIDER, PETER N. SILVESTRI, DEBORAH SIMS, LARRY SUFFREDIN and JEFFREY R. TOBOLSKI, Cook County Board of Commissioners

PROPOSED RESOLUTION

REQUESTING A HEARING OF THE FINANCE COMMITTEE TO PRESENT AND DISCUSS THE CIVIC CONSULTING ALLIANCE STUDY ON THE COOK COUNTY PROPERTY TAX ASSESSMENT SYSTEM

WHEREAS, the President of the Cook County Board of Commissioners announced in July 2017 a study to be conducted by the Civic Consulting Alliance analyzing Cook County assessment practices; and,

WHEREAS, the Cook County Assessor is responsible for assessing 1.8 million parcels of real estate on an annual basis; and,

WHEREAS, the property valuation process of the Cook County Assessor is governed by the Illinois Constitution and Statutes; and,

WHEREAS, 35 ILCS 200/9-5 et. seq. sets the standards that the Cook County Assessor must follow when setting property values; and,

WHEREAS, state law requires the Cook County Assessor to establish rules to be followed in assessing property; and,

WHEREAS, Illinois court decisions have further governed property valuation and the admissibility of evidence in property tax litigation; and,

WHEREAS, the Cook County Assessor uses computer programs and other tools to set assessment levels; and,

WHEREAS, the Cook County Board of Commissioners provides the Cook County Assessor with a budget for staff and resources to properly assess all properties.

NOW, THEREFORE, BE IT RESOLVED, that the Cook County Assessor and the Civic Consulting Alliance appear before the Finance Committee of the Cook County Board of Commissioners on or before the scheduled Wednesday, March 14, 2018 board meeting to present and discuss the results of the Civic Consulting Alliance study analyzing Cook County's property tax assessment system.

A motion was made by Commissioner Gainer, seconded by Commissioner Boykin, to recommend for approval 18-2142. The motion carried by the following vote:

Ayes: Chairman Daley, Vice Chairman Sims, Commissioners Arroyo, Boykin, Deer, Fritchey, Gainer, Goslin, Moody, Moore, Morrison, Schneider, Silvestri, Suffredin and Tobolski (15)

Absent: Commissioners: Butler and García (2)

ADJOURNMENT

A motion was made by Commissioner Tobolski, seconded by Vice Chairman Sims, to adjourn the meeting. The motion carried by the following vote:

Ayes: Chairman Daley, Vice Chairman Sims, Commissioners Arroyo, Boykin, Deer, Fritchey, Gainer, Goslin, Moody, Moore, Morrison, Schneider, Silvestri, Suffredin and Tobolski (15)

Absent: Commissioners: Butler and García (2)

Respectfully submitted,



Chairman



Secretary

A video recording of this meeting is available at <https://cook-county.legistar.com>.

**FINANCE COMMITTEE MARCH 1, 2018
SPEAKERS LIST (FINAL) FOR
ITEMS 18-2142 (CCA Report on Assessments) and 18-1604 (Tax Incentive Prevailing Wage Requirement)**

Item 18-2142

- | | |
|-------------------|--|
| A. Mark Armstrong | Chicago Urban Fine Arts Commonwealth |
| B. Clem Balanoff | Our Revolution Illinois |
| C. Sarah Brune | The Illinois Campaign for Political Reform |
| D. Eric Russell | Tree of Life Justice League Illinois |

Item 18-1604

- | | |
|--|---|
| 1. Reggie Greenwood | Chicago Southland Economic Development Corporation |
| 2. David C. Dillon | Dillon & Nash, Ltd. |
| 3. Scott Duerkop | Jones Lang Lasalle |
| 4. Jim Garrett | Chicago Southland Convention and Business |
| 5. Zachary Mottl | Atlas Tool & Die Works, Inc. and Tma |
| 6. Don Finn | Chicago & Cook County Building Trades |
| 7. Kristi Delaurentiis | South Suburban Mayors & Managers Association |
| 8. Doug Beckman | Village of Thornton |
| 9. Hon Keith Pekau | Village of Orland Park |
| 10. Hon Rich Hofeld | Village of Homewood |
| 11. Hon Richard Reinbold | Village of Richton Park |
| 12. Hon John Ostenburg | Village of Park Forest |
| 13. Hon Gene Williams | Village of Lynwood |
| 14. Hon James Ford | City of Country Club Hills |
| 15. Hon Riley Rogers | Village of Dolton |
| 16. Hon Robert Polk | Village of Burnham |
| 17. Hon Patty Eidam | Village of Lansing |
| 18. Hon Don Degraff | Village of South Holland |
| 19. John Watson | Village of South Holland |
| 20. Hon Hank Kuspa | City of Oak Forest |
| 21. Hon Sheila Chalmers-Currin | Village of Matteson |
| 22. Hon Sterling Burke | Village of Olympia Fields |
| 23. Tim Williams | Village of Riverdale |
| 24. Mike Marzal | City of Blue Island |
| 25. Tom Mick | Village of Park Forest |
| 26. Sandra Zoellner | Village of Park Forest |
| 27. Patrick Hoban | Village of Tinley Park |
| 28. Bree Breedlove | Business Owner State Farm |
| 29. Bishop Donald C Luster Sr.
Street Express | R.E.A.L. Municipal Solutions Llc/Mo Phi Premium Bbq & Maxwell |
| 30. Beth Wanless | Illinois Realtors, Chicago Association Of Realtors |
| 31. Melissa Whitley | Elliott And Associates |
| 32. Pete Saunders | City of Calumet City |

FINANCE COMMITTEE MARCH 1, 2018

SPEAKERS LIST (FINAL) FOR

ITEMS 18-2142 (CCA Report on Assessments) and 18-1604 (Tax Incentive Prevailing Wage Requirement)

33. Matt Frank	Village of Schaumburg
34. Brian Liston	Liston & Tsantilis
35. John Nyhan	Illinois Property Tax Lawyers Association
36. John Schneider	Village of Franklin Park
37. Mitch Simborg	Simborg Real Estate
38. Keeana Barber	WDB Marketing
39. Peter Tsantilis	Liston & Tsantilis, P.C.
40. John Coleman	Transwestern
41. Ted Stalnos	Calumet Area Industrial Commission
42. John C. Melaniphy	Village of Wheeling
43. William Sandrick	Sandrick Law Firm
44. Helen Lacek	Windsor Estates Assisted Living
45. Tad Lagastee	Lagastee Mulder
46. Justin Fierz	Midwest Industrial Fund
47. Dan Allen	Construction Industry Service Corporation (Cisco)
48. Jonathan Jones	Chicago Regional Council of Carpenters
49. Kevin Tobin	Tobin Development