



Construction NEWS



The Rockland Business Association hosted a tour of the New NY Bridge project on June 1, melding the old and the new. More than 140 guests of the organization enjoyed the rhythmic charm of the popular River Rose, an authentic Mississippi paddle wheeler, for the afternoon site inspection tour. See photos, page 13.

Level the Playing Field

Regulators Vow to Weed Out Prevailing Wage Violators

By JOHN JORDAN

SUFFERN, NY—In what was described as a “cat and mouse game” that is now being waged between state law enforcement officials and unscrupulous contracting firms, state regulators and law-enforcement agencies assigned to investigate prevailing wage violations reported the state is making progress in prosecuting and penalizing firms and their owners found to violate state prevailing wage laws on public construction projects.

Progress is being measured in several ways, state officials said while speaking at an industry-sponsored seminar on June 15 in Rockland. The Department of Labor has recovered and dispersed to workers who have been cheated on wages approximately \$65 million over the past five years, including \$7.5 million in penalties last year, it was reported.

Also, the Department of Labor has debarred at least 32 individuals or businesses so far in 2017, officials reported. Last year a total of 52 individuals or businesses were debarred from doing business with New York State. A majority of the

debarments stemmed from contractors engaged in falsification of payroll records, explained Christopher Alund, the director of the Bureau of Public Work for the state Department of Labor.

Mr. Alund said that contractors who violate labor laws and prevailing wage requirements “are stealing from you,” as he addressed nearly 100 municipal officials, contractors and labor leaders at the industry-organized and sponsored prevailing wage enforcement seminar.

He soon added, “They are stealing from all of us.”

Other officials speaking at the event who discussed what the state is doing to enforce wage laws and prosecute violators were New York State Department of Labor Commissioner Roberta Reardon and Deputy Commissioner for Worker Protection and Business & Labor Affairs James Rogers.

Introducing the panel of officials was Ross J. Pepe, president of the Construction Industry Council of Westchester & Hudson Valley, Inc. Mr. Pepe said willfully failing to pay the pre-

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vailing rate on publicly funded construction projects subjects the contractor and in some instances public representatives to fines and possibly criminal charges.

In a recent follow-up to the seminar Mr. Pepe wrote to public school officials throughout the Hudson Valley, warning them that negligence of enforcement is no defense for public officials responsible for procuring construction services for their institutions.

"You as a New York State public school or municipal official should be aware that most construction and other outsourced facility improvements performed in your district are subject to provisions of New York State Labor Law," Mr. Pepe stated in letters to more than 100 school officials. "The law mandates when prevailing wage must be paid to workers in the building trades on public works projects."

Although the June 15 seminar focused on prevailing wage requirements and enforcement, Mr. Rogers of the DOL discussed the work his department (Worker Protection and Business & Labor Affairs) tracks in terms of issues of misclassification of workers by some construction contractors in the private sector.

Investigators in state bureaus "spend a lot of time on construction sites in the private sector," he explained. In instances of out-of-state contractors working on projects here in New York, he has found that "the problem there is that those workers are misclassified so they are paid under the table in cash."

He added those out-of-state contractors are also not paying overtime or their fair share into the unemployment or worker's compensation systems, therefore undermining key worker protections.

He explained that union contractors and firms that abide by New York State labor laws are put at a competitive disadvantage "when out-of-state contractors come into the state and skirt the rules..."

"It's a crime. We try to handle it criminally in conjunction with county district attorneys," he added.

Mr. Rogers concluded his



From left, Christopher Alund of the New York State Department of Labor, Construction Industry Council President Ross J. Pepe, State Labor Commissioner Roberta Reardon, DOL's James Rogers and Alan Seidman of the Construction Contractors Association.

remarks by noting that the New York State Department of Labor and law enforcement called the "cat and mouse game" being waged by unscrupulous contracting firms.



Christopher Alund, the director of the Bureau of Public Work for the New York State Department of Labor.

are making a lot of headway in enforcing prevailing wage and state labor laws, "but there is a ton more to be done" in what he

Public agencies, contractors and organized labor must work together to tackle the problem, Mr. Alund of the DOL added

afterward. "The only way we get this job done is through a partnership."

With the amount of construction projects on the rise statewide, the workload of his department's approximately 55 investigators is enormous.

Gov. Cuomo announced on June 12 that \$3,137,910 in wages and interest during the first quarter of 2017, was returned to 1,367 workers as a result of prevailing wage enforcement efforts by the New York State Department of Labor. In addition, more than \$125,500 in civil penalties were assessed against employers in violation of prevailing wage law and 14 individuals or business entities were debarred in the first quarter of this year.

The figures from the first quarter of this year represent a 62-percent increase over last year's total money returned for January-March. In 2016, \$1,936,000 was returned to 1,109 workers and nine entities were debarred.

Approximately 34 percent of the state's total or \$1,054,686 in wages were recovered for 258 workers in the Mid-Hudson Valley during the first quarter of this year. Western New York workers recovered the most wages of any region in the state during the three-month period at \$1,137,880 involving 281 workers.

"This administration stands with all hard-working men and women, and we will fight tirelessly to ensure a fair day's pay for a fair day's work," Gov. Cuomo said. "We have zero tolerance for those who seek to skirt the law and deny workers what they are owed, and these actions bring us one step closer to a more fair and just New York for all."

Speaking to municipal officials and public agency executives, Mr. Alund said that public agencies must enforce the state's labor laws. He advised that if something looks wrong, contact the New York State Department of Labor. He also said, "If someone doesn't want to give you their payroll records, there is a problem."

He also related that the DOL once they have determined a violation has occurred, will then make an assessment whether it was a willful violation or simply a matter of a lack of education of the state's labor laws.

Mr. Alund said that the DOL can withhold funds to contractors in the cases of worker wage underpayments or other violations. However, the department will now seek to have public agencies also withhold payments until the DOL determines sufficient payments have been made to satisfy the shortages.

Orange County District Attorney David Hoovler, who has engaged in an aggressive campaign to combat prevailing wage violations, also addressed the seminar attendees.

The native of a blue collar, union stronghold in Central Pennsylvania, he took office in 2014 on a campaign to enforce labor and welfare laws in Orange County. "I hate driving to a job site and seeing 100 cars with Tennessee or Ohio license plates," Mr. Hoovler said, noting that underpaid out-of-state workers put law abiding New York contractors at a distinct competitive disadvantage.

Mr. Hoovler said that in three-and-a-half years in office, his department has investigated 24 labor law violation cases. While praising the Department



Officials of the State Department of Labor told an audience of public works officials, construction and building contractors and union leaders it has debarred at least 32 individuals or businesses so far in 2017. Last year a total of 52 individuals or businesses were debarred from doing business with New York State—with a majority of the debarments stemming from employers engaged in falsification of payroll records.

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of Labor in its primary role in enforcing the state's labor laws, the Orange County District Attorney's office when investigating possible violations issue subpoenas, and in some cases issue stop work orders at the jobsite.

Practices, in violation of the state's Workers' Compensation Law. At the time of his guilty plea Mr. Duffie admitted that he failed to file personal income tax returns from 2011 through 2013, and cheated his workers' compensation insurance

Mr. Hoovler said that his office prefers to negotiate a settlement with a company rather than prosecute. The strategies engaged by his office have produced results and in many cases brought company executives to the negotiating table. He noted that investigations of prevailing wage violations have sometimes expanded into other possible tax violations. The probes can not only center on company finances and business practices, but also in some cases expand into the finances of company executives.

During a spirited question and answer session between the speakers and attendees, Mr. Hoovler quipped, "You start looking at their personal finances, they fold in a minute."

"We have literally in Orange County hounded some bad companies with tax violations when we could not prove labor law violations," Mr. Hoovler said.

He said the office's protocol is to prevent labor law and tax violations from occurring, but if companies do not cooperate, his office will then prosecute.

The seminar concluded with luncheon speaker Department of Labor Commissioner Roberta Reardon (see story on page 4).

The Prevailing Wage Enforcement Seminar was organized and sponsored by the Hudson Valley Construction Industry Partnership (HVCIP), which represents more than 3,500 companies and boasts a workforce of more than 30,000 building tradesmen and women.



Orange County District Attorney David Hoovler



The Prevailing Wage Enforcement Seminar, sponsored by the Hudson Valley Construction Industry Alliance on June 15, was attended by nearly 100 officials representing the public sector, private employers and organized labor.



M. Paul Redd, Jr., senior investigator of the Bureau of Public Work, NYS Dept. of Labor.

In December 2014, the Orange County District Attorney announced the arrest of Scott Duffie, 61, of the Town of Newburgh, for violation of the New York State Tax Law, committed in connection with an electrical contracting business he operated since 1982. Over the years, Mr. Duffie worked on federal and state public works projects. On Nov. 23, 2015, Mr. Duffie pled guilty to a charge of Repeated Failure to File Personal Income Tax Returns, in violation of the New York State Tax Law, and Fraudulent

carrier by understating his payroll.

As part of the plea agreement, and prior to being sentenced, Mr. Duffie paid \$34,744 in restitution to the New York State Department of Taxation and Finance, and \$59,319 to The Hartford Insurance Co., his workers' compensation insurance carrier. On Feb. 3, 2016, Mr. Duffie was sentenced to three years probation. The investigation into his criminal activities was launched based on a referral from a local labor union.



New York State Labor Commissioner Roberta Reardon and Christopher Alund, the DOL's director of the Bureau of Public Work



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