

# ...BOLI appeals wage case

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law applies only if a public agency contracts directly with a construction contractor or if the public agency actually owns the project at its conclusion.

PDC contributed about 40 percent of the Tin Roof project's \$3.4 million total cost to renovate an old bakery on Martin Luther King Jr. Blvd. into the headquarters for Henry V, a private corporate events planning company. The area is an urban renewal district. PDC money came in the form of a \$1.2 million low-interest loan, plus a grant.

The court case focused on whether PDC had "contracted for" a public works project and whether the project was in the public interest.

Multnomah County Circuit Court Judge Henry Kantor ruled that PDC didn't control construction of the project so, therefore, it wasn't a prevailing wage job.

BOLI, represented in court by the Oregon Department of Justice, is appealing the decision.

Gardner told the Northwest Labor Press that while the appeal is pending, Kantor's ruling will not be binding on his interpretation of prevailing wage rates in other cases.

Gardner said the appeal is part of an overall plan he has to help clarify the application of the law when it comes to public-private development projects.

"Our ultimate goal remains the same," Gardner said. "We want clarity regarding prevailing wage rates on public-private projects for BOLI, public agencies, workers and developers. Because the lower court did not issue a written opinion, and given the fact that the case rests on the meaning of the words 'contracted for' by a public agency, an appellate court's written opinion on the proper interpretation of the law is critical to getting clarity."

Gardner also wants the appellate court to review the "carried on by" language in the prevailing wage law. He is looking for a public agency or a developer to work with BOLI on a stipulated

hypothetical "set of facts" to which he would issue a declaratory ruling to be reviewed by the Oregon Court of Appeals based on revisions made by the 2005 Legislature.

"We really need resolution as quickly as possible and this could save months or even years," he said.

The fact that PDC would sue over the creation of family-wage jobs was puzzling to some union officials.

Bob Shiprack, executive director of the Oregon State Building and Construction Trades Council, pointed to the results of a recent community outreach survey conducted by PDC whereby citizens ranked "increasing family-wage jobs" as PDC's top priority.

The survey listed 14 PDC programs and how citizens felt each should be funded. Number one on the list was to "increase family wage jobs by providing economic development loans and support to businesses willing to expand/stay within the city."

"It shows how arrogant PDC can be — using taxpayer dollars to sue another public agency over an issue (family-wage jobs) the public says should be its top priority," Shiprack told the Executive Board of the Oregon AFL-CIO. "This is not a union issue. It's a basic workers' issue."

Gardner said he is in the process of adopting administrative rules based upon areas of consensus reached by the Task Force on Public-Private Partnerships. The task force, which has been meeting for the past eight months, included contractors, developers, lenders, bureaucrats and union officials. There wasn't full consensus on when to apply prevailing wage rates, Gardner said, "but I think the group came closer to an answer."

Gardner said he will adopt a rule clarifying BOLI's policy to issue separate rates on mixed-use (commercial and residential) development projects, and also to continue segregating the public and private portions of a project whenever possible.

## Primary election results

# It's Kulongoski vs. Saxton in November

Gov. Ted Kulongoski was the winner in the Democratic primary election for governor. At press time, he had 55 percent of the vote against challengers Jim Hill and Peter Sorenson.

He will face Republican challenger Ron Saxton, an anti-public employee candidate who defeated Kevin Mannix by an unofficial margin of 43 percent to 30 percent in the Republican primary. In 2002, Mannix defeated Saxton in the primary, but then was defeated narrowly by Kulongoski in the general election.

A third candidate, Ben Westlund of Bend, Oregon, is still gathering signatures to qualify for the November general election as an independent.

In other statewide races, labor-endorsed Gene Hallman finished third in a three-person race for an open seat on the Oregon Supreme Court. Former labor commissioner Jack Roberts will be in a runoff with Virginia Linder in November.

Labor-endorsed Susan Castillo was easily re-elected superintendent of public instruction.

Statewide turnout in the mail ballot election was at a near-record low of only 35 percent.

In contested primary races for the Legislature, State Rep. Diane Rosenbaum won her race in House District 42, and Tina Kotek won her election in District 44. Both are Democrats. Rosenbaum, a member of Communications Workers of America, doesn't have an opponent in the general election.

Democrat Mary Botkin, a lobbyist for Oregon Council 75 of the American Federation of State, County and

Municipal Employees, fell short in a five-person race in House District 46. The winner was Ben Cannon.

The following are unofficial reports of labor-endorsed candidates either winning outright in the primary or moving on for a November runoff:

Diane Linn was unseated as the chair of the Board of County Commissioners for Multnomah County by newcomer Ted Wheeler. The margin of victory was 69.64 percent to 23.13 percent. Both candidates campaigned with labor endorsements.

State Rep. Gary Hansen, a member of Plumbers and Fitters Local 290, lost in his bid for an open seat on the Multnomah County Commission. Jeff Cogan and Lew Frederick were the top vote-getters and will face off in November.

State Rep. Steve March, a member of the American Federation of Teachers, lost to Lavonne Griffin-Valade in their race for Multnomah County auditor.

Dan Saltzman was re-elected to the Portland City Council. He was opposed by Amanda Fritz, a member of the Oregon Nurses Association. Both candidates had support from various unions.

Labor-endorsed City Commissioner Erik Sten outpolled Ginny Burdick and five other challengers for reelection to the Portland City Council. Sten took 50.52 percent of the vote to barely avoid a runoff.

In Washington County, Kevin Luby was defeated in his race for Circuit Court judge. He was endorsed by the Northwest Oregon Labor Council.

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