

manatt

March 20, 2008

REAL ESTATE & LAND USE

NEWSLETTER OF THE REAL ESTATE AND LAND USE PRACTICE OF MANATT, PHELPS & PHILLIPS, LLP

Prevailing Wages Update

[Roger A. Grable](#), 714.371.2550

In response to complaints by both labor and the private sector, the Director of the Department of Industrial Relations has proposed sweeping new regulations governing certified payrolls and state and local labor compliance programs. Prevailing wages as determined under the Labor Code must be paid by private contractors working on public works projects. The scope and pitfalls of these requirements were reported earlier in [Manatt Real Estate and Land Use](#) newsletters. All affected parties have complained about the cost and inefficiency of the enforcement of this law, particularly the lack of consistency in the application of the law and the fines and penalties imposed on violators.

The regulations proposed by the Director are intended to address these concerns by bringing greater clarity and specificity to existing monitoring and enforcement standards. Among other clarifying provisions, the new regulations would provide for the following changes:

- Express authorization for the electronic maintenance and submission of certified payroll records.
- Establish a specific required frequency for the furnishing of certified payrolls.
- Establish a specific statement of overall policies that govern enforcement of labor compliance programs.
- Specify that adherence to a labor compliance program that does not comply with the regulations will not excuse a failure to pay prevailing wages.
- Require that prejob conferences include a description of the legal duty to provide workers with itemized wage

NEWSLETTER EDITORS

Roger Grable

Partner

rgrable@manatt.com

714.371.2550

Robin Kennedy

Partner

rkennedy@manatt.com

650.812.1360

OUR PRACTICE

Manatt has a broad background in all areas of real estate practice that give our domestic and foreign clients the edge to succeed. Our professionals are recognized as some of the premier real estate and development advisors in the nation who promote the transactional expertise, market insight and government advocacy ... [more](#)

. [Practice Group Overview](#)

. [Practice Group Members](#)

INFO & RESOURCES

. [Subscribe](#)

. [Unsubscribe](#)

. [Sarbanes-Oxley Act](#)

. [Newsletter Disclaimer](#)

. [Technical Support](#)

. [Manatt.com](#)

stubs.

- Clarification of confusion over when statutory approvals are required.
- Increasing the Director's deadline for certain approvals from 30 to 60 days.
- Establishing minimum standards for the monitoring of payroll records, investigations of complaints and potential violations and audits.
- Clarification of the role of public works coverage determinations.
- Provide for early notice of proposed violations so as to enable contractors to resolve them before significant penalties are assessed.
- Clarification of the ongoing confusion relating to program responsibilities and to address the potentially excessive and disruptive use of withholding authority.

The text of the proposed regulations is available on the Department's website at <http://www.dir.ca.gov/DIRRulemaking.html>. After holding the hearings and considering all timely and relevant comments received, the Director may adopt the regulations as proposed or may modify the regulations. If the Director makes modifications, the proposed text will be made available to the public for at least 15 days prior to adoption by the Director.

For the most part, these revised regulations seem to be favored by the private sector. Private contractors on public works projects should track the status of these regulations, as they will become effective immediately upon adoption by the Director.

[back to top](#)

FOR ADDITIONAL INFORMATION ON THIS ISSUE, CONTACT:



[Roger A. Grable](#) Roger Grable's practice focuses on land use and entitlement law. He specializes in development processing, development agreements, CEQA, subdivision and vested rights issues. He has substantial experience in the area of affordable housing development and in negotiating school mitigation agreements.

* * * *

Attorneys in the Los Angeles office can be reached at (310) 312-4000 and attorneys in the Orange County office at (714) 371-2500.

REAL ESTATE & LAND USE GROUP CHAIRS

[Susan K. Hori](#)
714.371.2528

[Keith M. Allen-Niesen](#)
310.312.4105

REAL ESTATE & LAND USE MEMBERS

Valentin G. Aguilar II 310.312.4313	Keith M. Allen-Niesen 310.312.4105	Elizabeth C. Alonso 310.312.4188
Tina Ang 202.585.6567	Benjamin T. Benumof 714.338.2711	Michael M. Berger 310.312.4185
Ellen Berkowitz 310.312.4181	Katerina H. Bohannon 650.812.1364	William Brunsten 310.312.4109
Edward G. Burg 310.312.4189	Adria I. Cheng 415.291.7438	Alice C. Chuang 415.291.7443
Victor De la Cruz 310.312.4305	June DeHart 202.585.6510	Matthew A. Dombroski 212.790.4556
James F. Eastman 415.291.7436	Steve Edwards 714.371.2546	Robert M. Eller* 310.312.4338
John T. Fogarty 310.312.4165	Chanin A. French 212.790.4515	Paul A. Gangsei 212.830.7213
Clayton B. Gantz 415.291.7600	Virginia Gomez 310.231.5413	Roger A. Grable 714.371.2537
Bea Grossman 212.790-4625	Timi A. Hallem 310.312.4217	Ted W. Harrison 415.291.7441
Susan K. Hori 714.371.2528	Anita Yang Hsu 310.312.4204	Mark D. Johnson 714.371.2515
Robin Kennedy 650.812.1360	George David Kieffer 310.312.4146	Terry N. Kim 212.790.4514
Lisa Boswell Kolieb 310.312.4297	Kisu Lam 310.312.4164	Diana J. Lee 212.830.7246
Bryan C. LeRoy 310.312.4000	Alvin T. Levitt 415.291.7422	Renee B. Lindsey 310.231.5557
Sean Matsler 714.371.2534	Brady R. McShane 310.312.4386	Marvin O. Morris 202.585.6550
Tom Muller 310.312.4171	Todd Nelson 310.231.5449	Scott W. Nichols 310.312.4330
Dana P. Palmer 310.312.4137	Tim Paone 714.371.2519	Marv Pearlstein 415.291.7439
Michael Polentz 650.251.1440	John L. Ray 202.585.6565	Harvey L. Rochman 310.312.4104
Paul Rohrer 310.312.4264	Adam R. Salis 714.371.2529	Gina Samore Smith 714.371.2511
Masood Sohaili 310.312.4144	George M. Soneff 310.312.4186	Lisa Specht* 310.312.4298
Lauren Spiegel 714.371.2533	Martin E. Steere 310.312.4110	Camas J. Steinmetz 650.251.1455
Joshua C. Taylor 415.291.7446	Dina Tecimer 310.312.4293	Justin X. Thompson 310.312.4271
Ray F. Triana 415.291.7442	Ronald B. Turovsky 310.312.4249	Lisa M. Weinberger 310.312.4248
Ted Wolff 212.790.4575	Jack S. Yeh 310.312.4367	Grace S. Yang 415.291.7448

**Past Co-Chair*