

115 South LaSalle Street, Suite 2300
Chicago, IL 60603-3801
Website: bomachicago.org

Phone: 312.870.9600
Email: info@bomachicago.org



July 19, 2019

The Honorable Susan Sadlowski Garza
Chairman, Committee on Workforce Development
Chicago City Council
121 North LaSalle Street, Suite 200
Chicago, IL, 60602

Re: Chicago Fair Workweek Ordinance; O2019-3928

Chairman Sadlowski Garza:

For the last several weeks, the Building Owners and Managers Association of Chicago (BOMA/Chicago) has communicated our concern about the proposed Fair Work Week Ordinance with you and the members of the Council Committee on Workforce Development through correspondence and testimony. Although we had no opposition to the main intent of the ordinance, we did share our view that, as drafted, the ordinance unjustly interferes with the collective bargaining process by mandating that a waiver of the ordinance be included and explicitly stated in collective bargaining agreements in order to be exempt from the ordinance.

Our position remains that any government mandate to include items in a collective bargaining agreement that is negotiated in good faith contravenes, violates and is preempted by the national labor policy enunciated in and by the National Labor Relations Act, 29 U.S.C. §151, *et seq.*, and the National Labor Relations Board.

While our counterparts in the collective bargaining process may be willing to cede their good faith negotiation rights and responsibilities to a legislative body, BOMA/Chicago, is committed to preserving the integrity of the process, whether through legislation or litigation. To that end, the officers and Board of Directors of BOMA/Chicago have committed to exercising a legal challenge to the ordinance if it were to be passed with the mandated waiver.

In a June 7, 2019 letter, we shared our concern about the waiver mandate with you, the committee members and the Mayor's office. In doing so, we also pointed out that inclusion of the waiver language would make the City of Chicago's ordinance, if passed, subject to legal challenge on the grounds that it attempts to mandate negotiated provisions of bona fide collective bargaining agreements as has been successfully argued previously. (See Building Owners and Managers Association of Chicago v. Cook County, Illinois, 2006 N.D. III.)

Nonetheless, on July 17, 2019, we received a subsequent draft of the Fair Work Week Ordinance that is expected to be considered by the Workforce Development Committee on Monday, July 22. We were dismayed to see that the draft still contains the illegal language mandating the waiver inclusion.

In the above referenced case, our challenge to Cook County's attempt to interfere with the collective bargaining process ultimately resulted in the repeal and withdrawal of the entire Displaced Worker Ordinance passed by the Cook County Board.

(continued)

When challenged, courts have rejected efforts by other jurisdictions that have attempted to mandate items under collective bargaining agreements by ordinance and found them to be unlawful interference with private contracts, in violation of both the US and Illinois Constitutions.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael F. Cornicelli".

Michael F. Cornicelli
Executive Vice President