

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
SOUTHERN DIVISION

Southern Illinois Builders Association, a Corporation, et. al,)	
Plantiffs)	
-vs-)	Cause No. 4748
Richard B. Ogilvie, et al,)	
Defendants)	

ANSWER AND COUNTERCLAIM

Defendant METRO-EAST Labor Council, Inc., a corporation,
(METRO-EAST) answering the complaint, alleges:

I

Defendant METRO-EAST denies the allegations contained in
complaint paragraphs 2, 3, 4, 8, 12, 13, 15, 20 and 23.

II

Defendant METRO-EAST is without knowledge or information
sufficient to form a belief as to the truth of the allegations
contained in complaint paragraphs 1, 6, 7, 9, 11, 14, 16, 18,
19 and 21.

III

Defendant METRO-EAST admits the allegations contained in
complaint paragraph 17.

IV

Defendant METRO-EAST admits that the Defendant UNIONS are
labor organizations within the meaning of 29 U.S.C. Sections 152
and 185 and 42 U.S.C. Section 2000e, et seq, but denies that it
is a labor organization within the meaning of said statutory
provisions.

V

Defendant METRO-EAST is without knowledge or information sufficient to form a basis of the allegations contained in complaint paragraph 10; however, it believes that such a consent decrees with entered into by Defendant Operating Engineers Local 520 on about May 13, 1969.

VI

Defendant METRO-EAST denies that Plaintiffs by and through their members have attempted to follow the procedures set forth in the OGILVIE PLAN as alleged in complaint paragraph 22, and is without knowledge and information sufficient to form a belief as to the truth of the Plaintiffs' attempts to follow its collective decree. METRO-EAST is further without knowledge or information sufficient to form a belief as to the truth of complaint paragraphs 22a, 22b, 22c, 22d, 22e, 22f and 22h. METRO-EAST admits that the defendant UNIONS are refusing to recognize the sequential hiring directive as alleged in complaint paragraph 22g. METRO-EAST denies the allegations contained in complaint paragraphs 22i, 22j, 22k and 22l.

COUNTERCLAIM

For its counterclaim against the Plaintiffs, METRO-EAST alleges:

1. In about July, 1968, the United States Department of Transportation ordered that all federal funds for highway construction in Madison and St. Clair Counties Illinois be withheld for the asserted reasons of:

- a) high construction costs in the highway construction industry in said area; and
- b) the absence of minority group construction workers on federally assisted highway construction projects in said two county area.

2. Subsequent to the announcement by the U. S. Department of Transportation that it was withholding said funds (imposing a "highway freeze") for said area, officials of the Federal Government Departments of Transportation, Labor and Justice on numerous

occasions met with officials of the State of Illinois, representatives of the Plaintiffs, Defendant UNIONS and other labor organizations not named as defendants, and representatives of the minority group community for purposes of obtaining an acceptable plan between them which would satisfy the equal employment opportunity requirements of said Federal Departments and cause the "highway freeze" to be lifted.

3. The Defendant UNIONS and other labor organizations not made parties hereto at all material times steadfastly refused to agree to a reasonable plan which would satisfy the equal employment opportunity requirements of the said Federal Departments and consequently result in lifting the highway freeze.

4. That despite the efforts of the aforesaid Federal officials and State Officials to obtain Unions' agreement to such a plan, no unions ever agreed to any such plan. Teamsters Locals 729 and 525 signed only an Addendum to the OGILVIE PLAN.

5. At all material times after the imposition of the highway freeze, the Plaintiffs officers, agents and representatives knew that the Defendant UNIONS and other labor organizations were steadfastly refusing to agree to or execute any plan which would satisfy the equal opportunity employment requirements of the relevant federal agencies and thus result in the "highway freeze" being lifted.

6. The Plaintiffs, knowing of the Defendant UNIONS and other labor organizations refusal to sign any such plan, on or about May 28, 1970, in Washington, D.C. by its officers, agents and/or representatives agreed in the presence of officials of the United States Department of Transportation, Labor and Justice that they would implement without UNIONS' agreement the OGILVIE PLAN as then and there modified.

7. The June 3, 1970, final draft of such agreement (Exh. G) reflects the final written undertakings of the Plaintiffs.

8. As a direct result of and in consideration for such agreement by the Plaintiffs to implement the OGILVIE PLAN without the Defendant UNIONS and other labor organizations' agreement, the U. S. Department of Transportation lifted the "highway freeze."

9. Certain obligations taken by the Plaintiffs in the OGILVIE PLAN have been breached by them:

- a) The Plaintiffs have refused to make every effort to employ "permit" men in accordance with their manpower requirements as required by Art. V, Sec. 1.
- b) The Plaintiffs have failed and refused to assist permit men in becoming union members as required by Art. V, Sec. 1.
- c) The Plaintiffs have failed and refused in violation of Article VIII, Section 1 to employ Advance Trainees in the ratio established pursuant to Article VIII, Section 2.
- d) The Plaintiffs have failed to make every good faith effort to assure the same employment ratio of Advanced Trainees to journeymen in employment for each union on each construction job within the geographical area of the OGILVIE PLAN as required in Article VIII, Section 3.
- e) The Plaintiffs have refused to assist Advanced Trainees in obtaining full union membership upon becoming journeymen as required by Article VIII, Section 5.
- f) The Plaintiffs have failed and refused to devise and implement in co-operation with the Equal Opportunity Administrative Committee under the OGILVIE PLAN, methods and procedures which guarantee that all who reach journeyman status as described in Sections V and VII of the PLAN, shall be employed by the Plaintiffs during periods of normal construction activity as required by Article IX, Section 1 of the PLAN.

- g) The Plaintiffs have failed to notify labor unions with which they have agreement and subcontractors of the provisions of the OGILVIE PLAN as required by Article XI, Section 2.
- h) The Plaintiffs have failed to arbitrate a dispute concerning their breach of the OGILVIE PLAN although such a request has been made by METRO-EAST.
- i) The Plaintiffs have failed and refused bid on highway construction projects, and/or have submitted excessive bids in order to defeat the operation of the OGILVIE PLAN by making unavailable reasonable work opportunities for both black and white workers.

WHEREFORE, Defendant METRO-EAST prays:

- a. That this court dismiss the Plaintiffs' complaint on the ground that it was frivolously filed;
- b. That this court appoint a federal trusteeship over the Defendant UNIONS hiring halls in order to assure that the provisions of the OGILVIE PLAN are complied with;
- c. That this court require the Plaintiffs for one year after entry of its decree to submit to it a detailed explanation regarding why the bids of their members on highway construction projects in Madison and St. Clair Counties, Illinois so grossly exceed the State's estimated costs.
- d. That this court declares that the Federal Government and Departments thereof can constitutionally require that recipients of federal funds take affirmative action to guarantee that reasonable equal employment opportunity requirements are met.
- e. That this court declares that the OGILVIE PLAN is such an affirmative action PLAN and that no private agreements can interfere with the operation of said PLAN.
- f. That the Plaintiffs within 30 days after entry of the courts Decree be required to submit to the court a written plan for curing the violations alleged in paragraphs 9a, 9b, 9c, 9d, 9e, 9f and 9g hereof.

- g. That the Plaintiffs be ordered to arbitrate alleged breaches of provisions of the OGILVIE PLAN.
- h. That the court grant such other relief as will assure that black individuals will have an equal access to employment opportunities in the building and construction industry in Madison and St. Clair Counties.

METRO-EAST LABOR COUNCIL, INC.

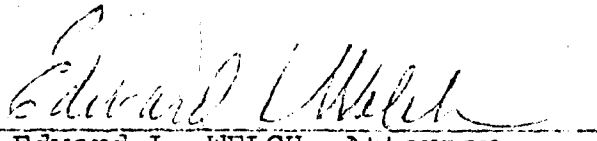
By

WELCH & WHEADON

ATTORNEYS AT LAW
310 N. 10th Street
East St. Louis, Illinois

PROOF OF SERVICE

Now comes Edward L. Welch, being attorney for Defendant METRO-EAST LABOR COUNCIL, INC., a corporation, in the above cause, and states that he served copies of the foregoing Answer and Counterclaim this 22nd day of February, 1971 upon Edward Neville, attorney for Plaintiffs SIBA and SICA by having a copy of same personally delivered to the office of said Edward Neville at 8787 State Street, East St. Louis, Illinois, and upon J. Leonard Schermer, attorney for Plaintiffs SIBA and SICA, 1921 Railway Exchange Building, 611 Olive Street, St. Louis, Missouri 63101; upon William P. Ryan, attorney for Defendant State Officials, Office of the Attorney General, Springfield, Illinois, 62706; upon James M. Winning, attorney for Defendant State Officials, 406 First National Bank Building (P.O. Box 1526) Springfield, Illinois 62705; and upon Harold Gruenberg, attorney for Defendant UNIONS, Suite 905 Chemical Building, 721 Olive Street, St. Louis, Missouri 63101, by United States Mail, first class, postage prepaid.


Edward L. WELCH, Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

SOUTHERN ILLINOIS BUILDERS ASSOCIATION,
a Corporation, et al
Plaintiffs

-vs-

RICHARD B. ORGILVIE, Governor, State of
Illinois, et al
Defendants

Cause No. 4748

MOTION TO DISMISS

Defendant METRO-EAST moves for an order of this court dismissing the Plaintiffs' Complaint herein for failure of Plaintiffs' to comply with Federal Rules of Civil Procedure, Rule No. 19, requiring that all indispensable be joined.


METRO-EAST states that:

- a. The controversy alleged by Plaintiffs cannot be finally determined without the presence of the United States Department of Transportation, United States Department of Justice, none of which has been made a party hereto.
- b. The ultimate authority for assuring equal employment opportunity rests with said Federal Departments. Any action take by this court in connection with the alleged controversy without the presence of said Federal Departments would result in a return to grossly discriminatory practices with no opportunity to curtail same, and a re-imposition of the withholding of federal funds for the highway construction industry in the two county area of Madison and St. Clair Counties, Illinois.

WELCH AND WHEADON
ATTORNEYS AT LAW
310 N. 10TH STREET - SUITE 100
EAST ST. LOUIS, ILLINOIS

PROOF OF SERVICE

Now comes Edward L. Welch, being attorney for Defendant METRO-EAST LABOR COUNCIL, INC., a corporation, in the above cause, and states that he served copies of the foregoing ~~Order~~ *Motion to Dismiss* ~~and the accompanying~~ this 22nd day of February, 1971 upon Edward Neville, attorney for Plaintiffs SIBA and SICA by having a copy of same personally delivered to the office of said Edward Neville at 8787 State Street, East St. Louis, Illinois, and upon J. Leonard Schermer, attorney for Plaintiffs SIBA and SICA, 1921 Railway Exchange Building, 611 Olive Street, St. Louis, Missouri 63101; upon William P. Ryan, attorney for Defendant State Officials, Office of the Attorney General, Springfield, Illinois, 62706; upon James M. Winning, attorney for Defendant State Officials, 406 First National Bank Building (P.O. Box 1526) Springfield, Illinois 62705; and upon Harold Gruenberg, attorney for Defendant UNIONS, Suite 905 Chemical Building, 721 Olive Street, St. Louis, Missouri 63101, by United States Mail, first class, postage prepaid.


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