

# Prevailing Wisdom

The Potential Impact  
of Prevailing Wages  
on Affordable Housing





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This report examines the potential impact of requiring prevailing wages to be paid on government assisted affordable housing in New York City. It includes analysis of existing studies, as well as analysis of applicable data sets, and incorporation of information from a small sample of affordable housing projects in NYC.

Elizabeth A. Roistacher  
Professor of Economics, Queens College and the Graduate Center, CUNY

Jerilyn Perine  
Executive Director, Citizens Housing and Planning Council

Harold Shultz  
Senior Fellow, Citizens Housing and Planning Council

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# Prevailing Wisdom

For more than two decades New York City has been at the forefront of innovative programs to create affordable housing. Since 1986, more than 200,000 units have been renovated or newly constructed with some City assistance. Perhaps most important has been the use of affordable housing development as a strategy to rebuild communities and reestablish housing markets in low-income neighborhoods. The transformative impact is undeniable. The condition of the City's housing stock has improved dramatically, and the production of much needed affordable housing has uplifted local economies, helped to reduce crime and improve service delivery, and helped low income communities to attract and retain wealth. Remarkably, these efforts have been sustained through four different mayoral administrations, economic boom and bust cycles, and a variety of changing subsidies and programs.

An entire industry of for profit and not-for-profit affordable housing professionals have flourished, bringing jobs, entrepreneurial activity, and desperately needed affordable housing to communities that were nearly abandoned twenty years ago.

Currently there is a debate as to whether government determined prevailing wages should be required for all City and State subsidized housing construction. Prevailing wages are wage rates that are set by government, usually at the rate paid under union contracts. They are generally higher than the wages set by market conditions.<sup>1</sup> Both the New York City Council and the New York State Legislature have considered bills that would mandate prevailing wages on housing construction subsidized by City or State funds.<sup>2</sup> With an economic recession and the concomitant slowdown in all construction activity, competition for the shrinking pool of construction jobs can be expected to grow. This downward pressure on market wages will increase the pressure from unions and labor advocates on legislators to intervene at a time when affordable housing can least absorb further increases in costs.

Proponents of prevailing wage requirements claim that a variety of benefits would result from such requirements, including higher pay for the workforce, better trained workers, and as a result, safer construction sites and higher quality construction, all without increasing the total project cost. Those in opposition to prevailing wage requirements cite the need to be flexible in setting wages to reflect both the wage actually prevailing in the marketplace and the nature of the work, to maintain control over job classifications and workforce composition on the site, and to keep costs low to preserve the financial viability of affordable housing development while ensuring both worksite safety and quality of construction that meets all legal and industry standards.

This Citizens Housing and Planning Council report seeks to clarify these issues and to help better inform policy makers and legislators as they consider this important question.

No examination of the construction industry can fail to recognize that there are legitimate concerns about the compensation and working conditions in the industry as a whole. Construction is a dangerous endeavor, and poorly done can threaten both the safety of the workers and the public. Recent fatal crane accidents in New York City only further underscore the dangers involved in construction and the need to continually review and assess legal and regulatory oversight. New York City's Department of Health and Mental Hygiene, its Department of Buildings, and the US Department of Labor's Occupational Safety and Health Administration have joined in a task force to review safety issues. Their findings are expected early in 2009.

As in most industries without vigorous oversight, there are potentials for abuses in both wages and working conditions. However, these problems exist well beyond the affordable residential construction industry and would not be fixed by solutions targeted only to affordable housing construction. In addition, while there are claims that these problems are more



concentrated within the affordable housing sector, there is an absence of systematic evidence that this is the case, or that imposing prevailing wages would address the most pressing concerns.

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Moreover, proving or disproving the claimed benefits of prevailing wage requirements has been remarkably murky, clouded by inadequate data, imprecise definitions, and arbitrary assumptions. In this report we seek to examine the various claims for the imposition of prevailing wages by reviewing the current literature and analyzing the available data to determine what the impacts would be and, where applicable, at what cost.

Briefly, our review indicates that:

- Imposing prevailing wages for affordable housing construction could increase the cost of labor, increasing total development costs by about 25%, resulting in the need for higher government subsidies or, in their absence the construction of fewer affordable units. In a typical apartment, rents might increase by about \$400 per month, thereby increasing the amount of annual income a household would need to afford the rent by \$16,000. Conversely, to keep the rent affordable to the same household, government subsidies would have to double or production of units would be cut in half.
- There is no evidence that imposing prevailing wages would improve construction quality.
- Construction fatality data in New York City does not indicate that imposing prevailing wages on affordable housing construction would result in fewer construction-related fatalities.

- The higher wages that would result from imposing prevailing wages on affordable housing would be less likely to benefit black and Latino construction workers, and may well cost many of them their jobs. These workers are already disproportionately under-represented in the construction industry and in the unionized construction trades, and they are disproportionately found in the lower wage sectors of the construction trades.
- Most non-prevailing wages as reported in government data, while lower than union wages, are not unreasonable. Even the lowest wages are, for the most part, not unreasonable for entry-level construction workers. To the extent that there are inadequate wages and working conditions, these result more from the undocumented status of workers, who might find themselves without a construction job if prevailing wage laws were instituted. Regardless of wage level, some workers are not receiving fringe benefits.

In the course of our review we also found that applying existing studies of prevailing wages to the affordable housing sector is not a straightforward process for a variety of reasons. First, most studies of prevailing wages either exclude housing construction or lump it with all general construction (bridges, schools, tunnels, sewers, commercial buildings, etc.). Second, housing construction data sets do not distinguish between affordable housing construction and market rate housing construction. Third, most data sources do not indicate whether a construction job requires prevailing wages, resulting in the necessity to use union data (where available) as a proxy for prevailing wage data. Fourth, data on ethnicity and race in relation to union versus nonunion construction for New York City is extremely thin.

Like other researchers, we are thus constrained to make assumptions and reasonable inferences from the data sets available. However, in doing so we have made a special effort to distinguish the data that apply to housing in general, as opposed to general construction data, and, where possible, data on affordable housing construction. In addition to the analysis of data that was available, we also augmented our work with payroll data from affordable housing developers.

## What is Affordable Housing?

For purposes of our review, we define affordable housing as residential projects that have been newly constructed or substantially renovated with construction or permanent financing subsidized through funds provided by the City of New York. In addition, these subsidies have resulted in housing that is affordable for households of low, moderate, or middle incomes. The primary reason for applying this definition is that the legislation proposed, both at the City and State levels, would impose a prevailing wage requirement on State and City assisted projects only. Our analysis has not specifically been extended to examine State funded projects. However, since many City funded projects share some State funding, it is reasonable to assume that the findings would apply to projects within New York City that are solely State funded.

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Many of the studies that justify the imposition of prevailing wages do not specifically analyze affordable housing, but nevertheless draw conclusions about this sector from broader construction industry data. For example, a strong advocate for prevailing wages, the Fiscal Policy Institute (FPI), which has issued a number of reports on this topic, frequently draws conclusions about affordable housing. However, the FPI reports do not provide any direct evidence on conditions within the affordable housing sector. They merely assume that any problems within the construction industry (working conditions, accident rates, off-the-books or misclassified workers) are greatly over-represented within that sector.

For example, in *The Underground Economy in the New York City Affordable Housing Construction Industry*, a number of tables purport to reflect the affordable

housing workforce. However, these tables are created with data on the entire construction workforce, not just residential construction, and are then adjusted through a large number of often debatable assumptions to reflect the residential construction sector and, finally, the subset of affordable housing. The tables do not apply any data from actual affordable housing projects.<sup>3</sup> The so-called affordable housing sector therefore inevitably reflects workers on a wide variety of projects that differ not only in scale but also in construction methods. For example, workforce information on projects like the substantial reconstruction of a private owner's home, undertaken by a contractor hired by the homeowner, would be reflected in their affordable housing analysis. Similarly, workers on high rise multifamily new construction receiving no government subsidies and workers on unsubsidized lower rent housing in Staten Island would also be reflected. Thus, problems that are identified with such as-of-right and "spot" construction then become the basis for a legislative cure that addresses only the publicly subsidized segment of the affordable housing industry.

## Do Prevailing Wages Increase Construction Costs?

Two basic approaches have been used to determine whether or not requiring prevailing wages increases the cost of construction projects. First is to construct a hypothetical model of a construction project and determine how changing the wage rate influences the total cost. Second is an econometric approach to try to compare costs of similar projects with and without prevailing wages to determine if there is a difference.

In current discussions, the most frequently cited example of the first approach, constructing a hypothetical model, is the study prepared by the Center for Governmental Research (CGR).<sup>4</sup> While CGR presents results for a variety of areas within New York State and compares these to costs in competitive locations outside the state, our interest is in the result for New York City. The researchers calculate an increase in labor costs of 80% and in project cost (labor plus materials) of 48%. These calculations assumed that labor costs in New York City accounted for 60% of the total of labor plus materials, probably too high a figure. In addition, it makes sense to determine the impact on total development cost. In a Fiscal Policy Institute paper, labor's share of total cost is said to be one-third (and falling) — a figure that





that the analysis begins from a higher base than one based only on non-prevailing or nonunion wages. In addition, because the market rates include both residential and non-residential construction employment, the base is higher than if it were to include only residential construction employment.<sup>8</sup>

One last limitation of these hypothetical studies is that they generally apply rates from prevailing wage rate schedules. These rates may under-represent or over-represent what would actually be paid with a mix of apprentice wages and wages for highly-skilled or experienced workers who earn more than what is in the prevailing wage schedule.

While we can't adjust for all of these limitations, it would not be unreasonable to estimate from our modification of CGR's calculations an increase in total development costs in the range of 20 to 25% in order to reflect some productivity gains. If fringe benefits are not being paid to many of the workers, it would be conservative to assume a 25% increase in costs, even with productivity gains.

makes more sense for total development cost, including labor and materials, land, and soft costs.<sup>5</sup> With this assumption, total development costs would increase by only 27% if fringe benefits are included in market labor cost. However, the percentage increase would be higher if fringe benefits are not being paid to many of the construction workers.<sup>6</sup>

This approach of a hypothetical project, however, is subject to a variety of limitations, some of which suggest that it leads to over-estimation of cost increases, others of which lead to an under-estimation. The hypothetical approach leads to an over-estimation of the impact of prevailing wage requirements on total construction if higher wages induce increased productivity as a result of attracting more highly skilled workers<sup>7</sup> or if higher wages induce more labor-saving techniques in housing production. The likelihood of higher wages inducing more labor saving techniques in housing production is constrained by building codes and site limitations.

Cost increases using the hypothetical model also have some limitations that lead to under-estimation of cost increases. For instance, the use of market wage rates from government data, because they include union and nonunion (prevailing and non-prevailing) wages, mean

Calculations using Current Population Survey data are consistent with these adjustments of the CGR findings: The median nonunion wage for New York City construction workers in selected trades (to be more representative of the building trades) was \$13.50 in 2007; the corresponding union median was \$19.57, 45% higher than the nonunion median. Adding on fringe benefits of 35% for nonunion workers and 62% for union workers (taken from the CGR report and an unpublished table provided by the Center for Governmental Research) the union/nonunion differential increases to 74%. Assuming labor's share is one-third of total development costs, the increase in total development costs would be roughly 25%. However, productivity gains and other cost-saving responses would lower the figure. For example, factoring in a 20% productivity increase results in a 20% increase in total development costs,<sup>9</sup> but again, if fringe benefits are not being paid to many of the workers, the percentage increase would be higher. Moreover, here, and in the earlier results in this section, the cost of compliance, job reclassification and workforce composition would further increase the gap between prevailing and non-prevailing wage construction projects.

The second approach to estimating the impact of prevailing wage requirements on cost, the econometric approach, relies on actual project data with and without prevailing wages. Econometric models incorporate statistical controls to attempt to adjust for other differences in the projects. This approach overcomes many of the problems in the hypothetical approach.

So far the only econometric studies that actually examine affordable housing projects with and without prevailing wages were done in California where the relatively recent passage of a prevailing wage law that covered Low Income Housing Tax Credit projects (LIHTC) facilitated this kind of analysis. These two studies were done using overlapping data bases.

***Interestingly, almost all of the econometric studies cited in the EPI and FPI reports do not involve residential construction.***

For example, productivity increases and compliance costs would be taken into account, and there would be a clear distinction between wages on non-prevailing wage sites and prevailing wage sites. Econometric studies, however, have problems of their own. Results are affected by the nature and quality of the data, the mathematical modeling, and the estimation techniques. Then, generalizing from one study to another situation (e.g., generalizing from a study of school construction projects in Canada in the 1990s to affordable housing in New York City in 2008) will add new problems to the mix.

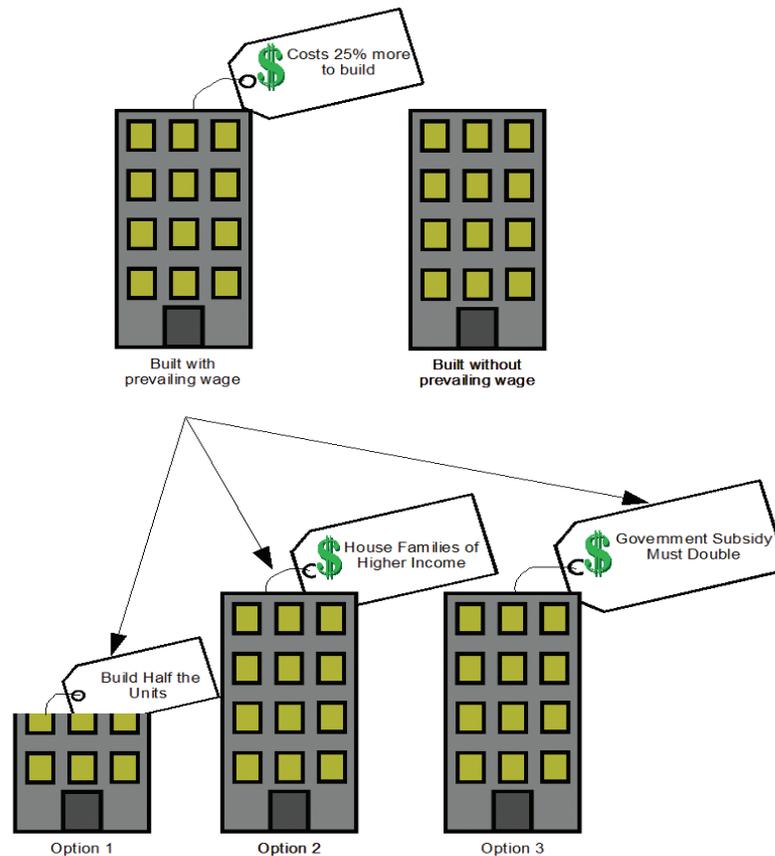
What do the California studies show? A paper by Sarah Dunn, John Quigley, and Larry Rosenthal used data on 205 projects using Low Income Housing Tax Credit (LIHTC) in California with applications filed between January 1, 1997, and May 1, 2002.<sup>12</sup> A California law requiring prevailing wages was amended in October of 2001 to include subsidized housing that had previously not been subject to this requirement. The authors collected detailed data on the housing projects, including costs and characteristics, location, and whether or not the project was developed with prevailing wages. Twenty percent of the sample projects paid prevailing wages.

Depending on their model specification and their estimation technique, they obtained a range of results that varied from as low as 9.5% to 37.2% for the increase in total development cost. This large range of results is indicative of the limitations of econometric analysis. The authors, however, use a midpoint estimate of 25% when they summarize their calculations of the impact on affordable housing production. The other California

A recent paper issued by the Economic Policy Institute (EPI), reviews many of these studies.<sup>10</sup> They are for the most part comparisons of government versus private construction of schools or of other public facilities. This review concludes, as does an FPI report,<sup>11</sup> that the econometric literature finds the imposition of prevailing wages to have no impact on costs, that is, the studies show no statistically significant difference in costs. (The studies that *have* shown a significant cost difference are rejected on various grounds.) Interestingly, almost all of the econometric studies cited in the EPI and FPI reports do not involve residential construction.



Figure 1  
Impact of Requiring Prevailing Wages on  
Affordable Housing



paper uses a larger data set drawn from the California LIHTC data base (365 observations).<sup>13</sup> The authors, testing a slightly different specification, found an 11% increase in total development costs, at the low end of the Dunn, *et. al.*, results. (The higher end results from Dunn, *et. al.*, used a more sophisticated estimation technique.)

How different the California market is from the New York market, of course, remains an open question. But it is likely that these studies are more indicative of the impact on affordable housing costs in New York than the econometric studies done in different time periods in different locations for different types of construction.

Thus, the only econometric studies of the impact of prevailing wages on affordable housing construction costs do show a significant impact, even if the lowest estimate were the only result. There does not appear to be *any* study that finds no cost impact on subsidized, residential construction. The Economic Policy Institute paper cited above suggests the following possible explanations for

why the Dunn, *et. al.* study shows a cost increase while most other econometric studies do not:

*It is possible that low-income subsidized housing construction might require less skill, lower costs of materials, and a larger share of labor in total cost compared to overall government construction. Labor-intensiveness, skill, and material-saving technologies involved in affordable housing construction might be sufficiently different from those used in other public building and road construction that the operation of prevailing wage regulations works differently in this sector. If this is the case, then prevailing wage regulations might operate differently in the affordable housing sector, which is a small share of government construction relative to construction on highways, schools, and infrastructure.*

The econometric results, our own adjusted results of the CGR hypothetical analysis, and our own additional calculations based on union and nonunion wages strongly suggest that the imposition of prevailing wage requirements will have a significant impact on costs of residential affordable housing construction.

As an example, let us take an affordable housing project that costs \$250,000 per unit to build. A 25% increase in the cost of that unit (a number supported in a variety of ways in the previous discussion) would increase the cost by \$62,500 per unit to \$312,500 per unit. To amortize the additional \$62,500 per unit would cost about \$400 per unit per month.<sup>14</sup> Even without taking into consideration the higher return on the increased developer's equity, additional rent of about \$400 per month would be required to support the increased debt service attributed solely to the imposition of prevailing wages. To the extent that subsidized housing programs are designed to reach households which cannot afford market rate housing, an additional \$400 per month is significant. That amount would have to be covered either with additional subsidies or by renting to higher income tenants who could afford to pay the additional amount. An increase of \$400 per month in rent requires an additional income of about \$16,000 per year per family (assuming that rent should not exceed 30% of gross income). Thus, a low income family of four, making \$35,000 per year, who could have afforded an apartment renting at \$875 per month, would now find that that same apartment would cost \$1,275 per month. They would be unable to afford it. The apartment would be rented to a higher income family making at least \$51,000 per year. Clearly, this makes providing housing for lower income families far more difficult.

Even more striking, subsidies would more than double to cover the increased costs if

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affordability was to remain the same. Typically, the New York City Department of Housing Preservation and Development (HPD) provides only a portion of the financing needed to subsidize a new housing unit. The rest comes from Low Income Housing Tax Credits, New York City Housing and Development Corporation (HDC) financing, New York State Housing Finance Agency (HFA) financing, equity contributions from owners, and commercial construction loans. City subsidies are critical to ensuring that the projects may be affordable to households with insufficient income to obtain conventional market rate housing. Such subsidy amounts are usually in the range of \$40,000 to \$60,000 per unit. To cover the increased construction cost of \$62,500 noted above, and keep the apartment affordable to the same income group, HPD or HDC would have to provide additional subsidy of \$62,500 per unit. This would more than double the needed government



subsidy. Assuming no additional funds were to be made available (as we can expect in the current environment), the number of units of housing currently produced in non-prevailing wage projects which require HPD or HDC subsidies, would be reduced by more than half. Even if costs went up by only 10%, or \$25,000, the number of units that could be supported while maintaining affordability levels would be reduced by more than one-third.

Thus, the imposition of prevailing wages on subsidized housing will reduce the number of apartments produced, require the projects to reduce the number of lower income tenants, or require larger governmental appropriations to maintain production at the current level. In the current economic climate increased subsidies are unlikely. The more likely outcome would be a reduction in affordable housing units altogether.<sup>15</sup>

### **Will Prevailing Wages Improve Construction Quality?**

A common claim made by prevailing wage advocates is that a workforce not subject to those wages will produce lesser quality construction. However, there is no evidence that City-subsidized affordable housing completed with a workforce that was not subject to prevailing wages is of lesser quality than it would have been had a prevailing wage workforce built it. The quality of the product of affordable housing is largely a result of the approved and financed scope of work and the amount of applied oversight. So, for example, if a small home is constructed at low cost with a scope of work that does not include expensive finishes, it may be viewed as lesser quality than a more expensive house built with top quality finishes. However, the construction workers who built it were not responsible in either case for the decisions that led to the final scope of work that was approved and built. While some workmanship may be of poor quality in some housing construction, affordable or otherwise, there is no systematic evidence that this is the case for affordable housing subsidized by the City.<sup>16</sup>

In addition, affordable housing in New York City is subject to all of the same building codes and construction standards as any other type of housing construction, without regard to the type of wages paid. Prevailing wages *do* bring extra oversight on wages, job classifications, and workforce composition, but not on the scope and quality of the construction. And while it

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is reasonable to assume that the budgets for affordable housing projects may not generally include expenses that would result in high end finishes, as mixed income projects become more common, even this distinction is disappearing. All residential projects in New York City are subject to the New York City Building Code and must obtain a Certificate of Occupancy to ensure adequate compliance with construction standards as well as zoning rules.

Moreover, affordable housing projects are often subject to additional requirements such as Quality Housing zoning requirements as well as local housing agency review, in addition to the standard government and private lender oversight. In sum, the approved budget and scope of work largely determine the end product, and the construction is subject to at least all of the same government regulation that any other residential project is subject to and, frequently, more.

In its report *Building up New York, Tearing Down Job Quality*, FPI makes the claim that:

*The prevailing wage concept stems from a concern that unchecked competition among employers to pay low wages in construction would lead to a less-skilled and less-productive workforce and to shoddy construction practices and unsafe public buildings and infrastructure.<sup>17</sup>*

Whether or not this was the original reason, much has changed since the 1930s, including strengthening of local building codes, the creation of OSHA, and other improvements.

In either case, there is no evidence adduced in the FPI report, or any other that we could obtain, to show that buildings built with non-prevailing wages in NYC are in any way more “shoddy” than buildings built with prevailing wages.<sup>18</sup> Of the more than 200,000 units

of affordable housing built or renovated with City assistance over the last 20 years, few have experienced systemic construction-related problems. Two notable construction problems that occurred on large scale renovation projects financed through HPD that resulted in long-term litigation were both construction projects that were built subject to prevailing wages.<sup>19</sup>

## Do Prevailing Wages Improve Site Safety?

Is there evidence to support the claim that the imposition of prevailing wages for affordable housing will result in safer worksites? There is universal agreement that construction safety for workers and the public is a high priority, regardless of the type of construction or the pay scale of its workforce. Here we explore, first, if there is a distinction in building construction safety as a whole between the union and nonunion workforce and what impact prevailing wages would have on safety; second, if in fact the affordable housing industry in New York City is any less safe than the industry as a whole.

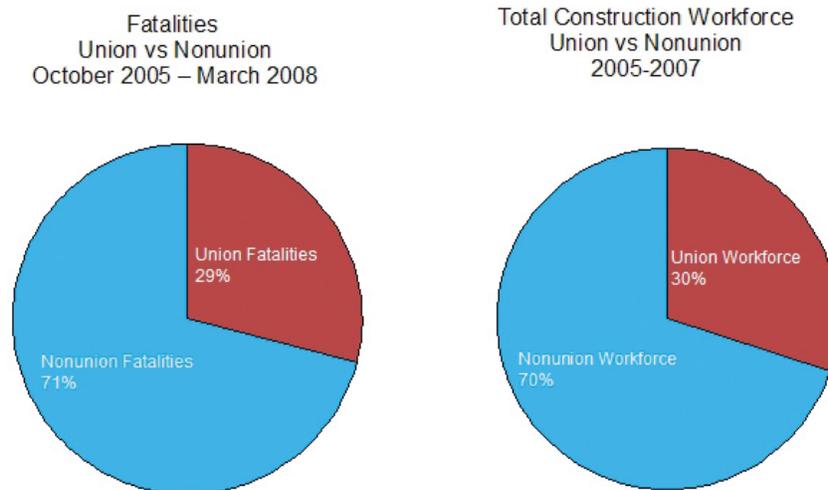
In order to review this issue, we relied on data compiled by OSHA, the agency charged with the collection of data and investigation into worker injuries and fatalities. We

must note a number of issues related to this OSHA data. First, it is not possible to determine specifically if the job site was subject to prevailing wages or not. It does, however, provide an indication of union status. For these purposes we have therefore presumed that union employment is a reasonable proxy for prevailing wages.

Second, injury data is, for this analysis, not a reliable source in determining site safety for affordable housing construction.<sup>20</sup> Injury data is kept by employers on site and is only sampled by OSHA for its reports, leaving significant room for error.<sup>21</sup> Moreover, the data kept on-site does not indicate the union status of the workers, and there are questions about the consistency of reporting from worksite to worksite.<sup>22</sup>

Thus we have relied on fatality data as a proxy for safety in general. OSHA investigates all fatal construction accidents and maintains all on-site fatalities in a database that provides both the address of the construction project and an indication of unionized status of the worker involved in the accident. The address information was critical to determining if the fatalities occurred on affordable housing construction sites or not. Unfortunately, OSHA has only been

Figure 2  
Percentage of Fatalities, Union and Nonunion Workers  
Percentage of Union and Nonunion Construction Workers  
New York City Construction Sites\*  
October 2005 - March 2008



\*Data includes residential and non-residential building construction fatalities.

Source:CHPC analysis of OSHA fatality data and Current Population Survey (2005-2007 Merged Outward Rotation Group files).



collecting data that includes address of the construction fatalities since October 2005, so the data set was limited to that period.

***There is universal agreement that construction safety for workers and the public is a high priority.***

The OSHA report on fatality data for the period October 2005 through March 2008 for New York City includes 61 construction (residential and non-residential) sites where 66 fatalities occurred.<sup>23</sup> Seven of the fatalities were not classified as either union or nonunion and were therefore eliminated from our review. Thus, our analysis covers the 59 fatalities that were classified by both union status and address. Of the 59 deaths, 18 (31%) involved union construction workers and 41 (69%) involved nonunion construction workers. The data included the first of the two crane accidents that occurred in 2008 but not the second one, which resulted in the death of two more union construction workers. Of the 59 deaths, four were located on sites that were City-assisted affordable housing projects; one was a union worker, three were not.

To have a meaningful comparison of safety rates, it is necessary to know the shares of construction done by nonunion and union workers to determine if one group had fatalities out of proportion to the amount of work each category was doing. This proportionality applies to the industry as a whole and not just affordable housing as defined here. The only study we have found that attempts to make such a comparison was done in 1990 by the US Department of Labor analyzing fatalities throughout the United States, as recorded by OSHA for the period 1985-1989.<sup>24</sup> That study compared, among other things, total participation in the construction workforce by union and nonunion workers. It found that construction fatalities occurred in the same proportion as union and nonunion labor in the workforce.<sup>25</sup>

Applying the same methodology to examine the data for New York City's residential construction, we first need to know the proportion of union and nonunion labor in the residential construction work force. The union status of workers is available in the Current

Population Survey for construction industry workers by place of the worker's residence, but not by place of the worker's job site and with no distinction between residential construction, non-residential building construction, and other types of construction.<sup>26</sup> Because the rate of unionization for residential construction workers cannot be directly determined from the data, we examined selected trades<sup>27</sup> for construction workers residing in New York City and adjusted their unionization rate to reflect the fact that about 20% of those working in the city resided outside of the city.<sup>28</sup> (We were unable to adjust for the roughly equal number of resident workers who did not work in the city.) For construction industry workers in selected trades who resided in New York City, the average unionization rate from 2005 through 2007 was 27.9%. The adjusted rate, including those residing outside the city, is 30.4%.<sup>29</sup>

Thus, Figure 2 shows that in New York City, fatal construction accidents occur among union and nonunion workers (both residential and non-residential) in roughly the same proportion as there are union and nonunion workers in the city's building construction labor force. Even if the unionization rate were somewhat higher, the limited New York City data do not justify a conclusion that nonunion workers have higher fatality rates.<sup>30</sup> Therefore, it appears that requiring prevailing wages - to the extent that the payment of prevailing wages is coincident with unionization of work sites - would not lead to a large improvement in the safety record of the construction industry.

Narrowing our focus to residential construction only, another way to look at the relative comparison of safety rates would be to examine fatality rates within the affordable housing sector compared to all other residential construction, and then compare these rates to the relative shares of affordable and other residential housing within all residential construction work.

The work locations identified in the OSHA reports were researched to determine which ones were residential construction sites and, of those, which received City assistance to develop affordable housing. We found 39 residential construction sites (out of the total 59) with 42 fatalities for the period October 2005 through March 2008. For City-assisted affordable housing, we were able to find four work sites with a total of four fatalities for this period. One of these job sites was a union

worksite. Thus, the three nonunion fatalities on City-funded affordable housing construction sites accounted for only 7% of the 42 residential construction fatalities for the same period. For the fifteen months from January 1, 2007, through March 31, 2008, there were no fatalities on City-funded affordable housing sites compared to 17 on non-affordable housing residential construction. This number seems quite low when we do a rough comparison of City-assisted construction

found as detailed above. The difference is most likely explained as the result of FPI's having available a small, unrepresentative sample. While our sample is also relatively small, it is more than twice as large as FPI's and as a result is likely to be more accurate. Certainly, it is important to continue to track the OSHA fatalities data sets over time.

### **How Will Prevailing Wages Affect Minority Workers?**

A key question concerning prevailing wage requirements is whether the benefits of increased wages will be distributed fairly. City-funded housing construction has made great strides in creating housing and jobs in local communities. Pioneering programs such as the Neighborhood Entrepreneurs Program (NEP) and the Neighborhood Redevelopment Program (NRP) were designed specifically to encourage local developers (both for profit and not-for-profit), and minority contractors to generate not just affordable housing, but employment and business opportunities in largely minority communities.<sup>33</sup>

To the extent that a mandatory prevailing wage would result in a higher level of union labor in City-subsidized housing construction, it's fair to ask if minority workers could reasonably be expected to share in such benefits.

There is no doubt that construction unions have made progress in opening their membership to Latino, black, and other non-white workers. We have come a long way from the 1960s when Thurgood Marshall, newly appointed as the first black judge to the bench of the United States Second Circuit Court of Appeals, was mistaken by a secretary for an electrician. He remarked that the secretary must be "crazy... to think that I could be a member of the electrician's union in New York!"<sup>34</sup>

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to residential construction in general. For City Fiscal Year 2008, HPD reported 7,171 units of new and gut construction starts.<sup>31</sup> For calendar year 2007, the Census Bureau reported permits issued for 31,902 new housing units in New York City. Thus City-assisted construction of new housing appears to be about 22% of all new and gut housing construction in New York City. Even if we were to count only HPD new construction starts, affordable housing starts would be 20% of the total.

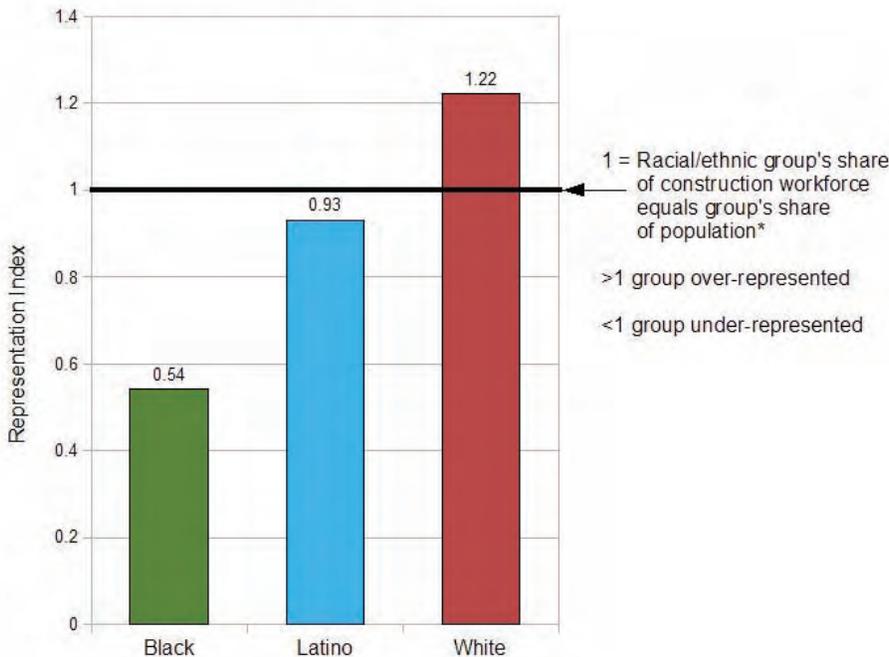
Our findings are substantially different from those in the FPI report *Building Up New York, Tearing Down Job Quality* (p. 10). In that report FPI cites an OSHA study indicating that 86% of construction fatalities from the period October 1, 2005, through September 30, 2006, occurred on nonunion sites. This presumably supports the argument that lack of prevailing wage requirements creates unsafe working conditions.<sup>32</sup> (FPI does not mention that the majority of residential workers are not in unions, although it does produce a unionization rate that is significantly higher than our estimate. See endnote 29.)

However, when the smaller pool of data that FPI reviewed was expanded from the 12 months to the 30 months CHPC reviewed, a very different result was

***There is no doubt that construction unions have made progress in opening their membership to Latino, black, and other non-white workers.***



Figure 3  
Representation Index  
Racial/Ethnic Groups  
NYC Construction Industry  
2000 Census



\*Population restricted to males with at least an 11<sup>th</sup> grade education and not more than some college (i.e. no four year college degree).

Source: CHPC chart based on *State of Black New York 2007*, Table 4, page 34.

*et. al.*, analyze the participation of white, Latino, and black workers in the New York City construction industry using data from the 2000 Census. The “crowding score” (which we refer to as the “representation index”) indicates the amount by which a particular ethnic group is under-represented or over-represented, taking into account the educational backgrounds of construction workers. More specifically, they define their crowding score as follows: “We estimate the ratio of the employment share of a particular racial/ethnic group within the construction industry relative to their share in the population that meets the educational requirements ...” (p. 34) which are defined as “...having at least an 11<sup>th</sup> grade education and not more than some college (i.e. no four year college degree)” (p. 33). As Figure 3 shows, in the year 2000, using this crowding score, whites were 22% over-represented in construction, blacks were 46% under-represented and Latinos were 7% under-represented.<sup>36</sup>

But how much progress has really been made? Just this year Sheet Metal Workers Local 28, a New York City construction union, finally settled a discrimination suit that has been pending for 37 years.<sup>35</sup> Not coincidentally, that union has been under federal court supervision for a number of years for a variety of issues, as have a number of other unions in New York City.

Is this an isolated case, or are there still discrimination problems in New York City construction unions?

Darrick Hamilton, Dennis Derryck, and Sabine Salandy address this issue in “Black New Yorkers in the Construction Industry,” a chapter in *The State of Black New York 2007*, published by the Black Equity Alliance and the New York Urban League.

Using what is known as a “crowding score,” Hamilton,

Figure 4, our replication of their findings, also shows the wage rates that black and Latino workers received as a percentage of the industry average. This chart shows that black and Latino workers respectively earned only about 67% and 60% of average industry wages, whereas whites earned 120% of average wages.

In their more detailed analysis of 38 occupations within the construction industry, the authors state that, “... we do find statistical evidence that native-born blacks are ‘crowded’ into low-earning occupations in the construction industry” (p. 37). Hamilton *et. al.* further find that:

*In comparison to blacks, the relationship between occupational wages and crowding in construction industry jobs for white*

males is reversed. In addition, white males in the construction industry tend to be proportionally represented across occupations, 53 percent of all construction industry occupations are proportionally represented (i.e. exhibit “no crowding”) by whites. Moreover, the occupations in which they are under-represented have about a \$15,000 (or 34 percent) lower average wage than the occupations where they are over-represented. . . . **Hence, there is a pattern that whites in the construction industry are clustered into the high earning occupations (emphasis added).** (p 37)

Of course, this analysis shows only that whites dominate higher paying jobs in construction, but it does not tell us why. The disparities could be explained by a number of factors, among them differences in experience or training of workers, or selectivity of employers or unions.

The study does seek to provide some answer to this question by analyzing the ethnic make-up of union apprenticeship programs using data the authors obtained from the New York Department of Labor through a Freedom of Information request. In Figure 5, we report their findings of the ethnic makeup of apprentices in different apprenticeship programs, which are supposed to be the path to union membership. Note in Figure 5 that two of the unions that have made the most progress, Sheet Metal Workers and Carpenters, have been under federal court supervision for extended periods of time. (Figure 5 shows growth in

number of non-white apprentices from left to right, least improvement on the left, and most improvement on the right.)

As Hamilton, *et. al.*, note, although there has been an increase in the number of black and Latino apprentices from the 1990s to the 2000s, when they compare the racial characteristics of eleven apprenticeship programs in the 2000s to the racial characteristics of males in New York City between the ages of eighteen and thirty-five who had no more than a high school diploma in 2004, they find that, “Only three come close to being representative of the demographics of the city: the painters & decorators (structural steel), sheet metal workers, and the painters, decorators & paperhangers. For the most part, whites were over-represented compared to their share in the city’s population.” (p. 39).

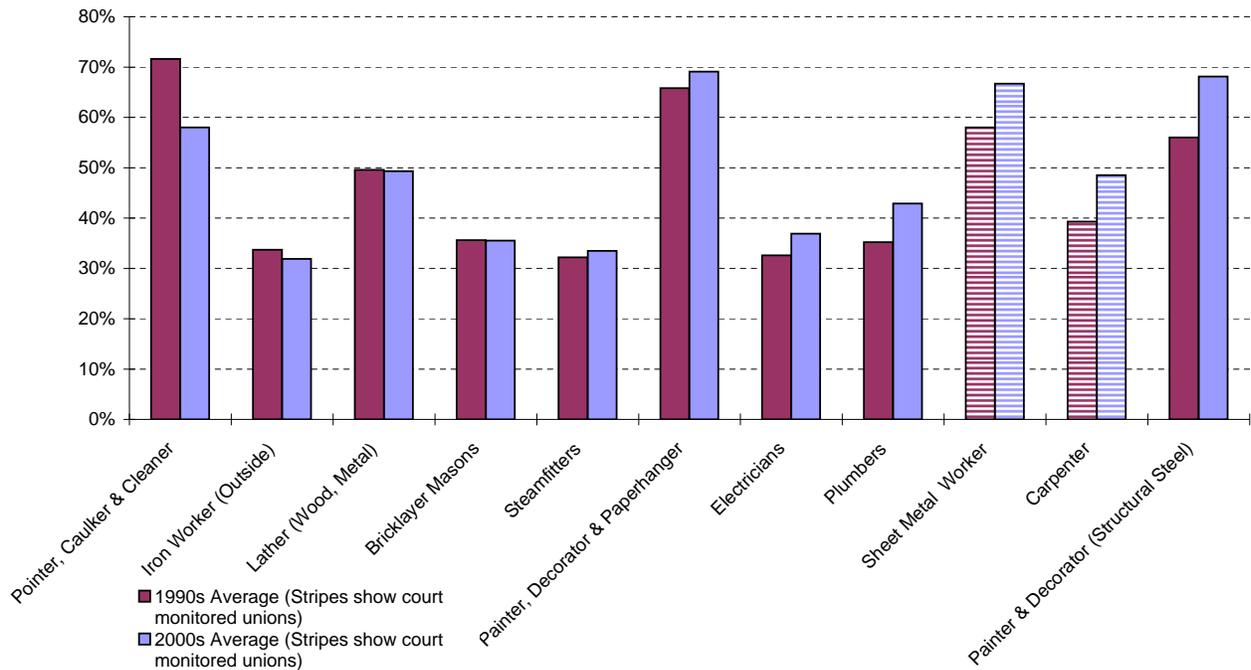
Figure 4  
Percent of Average Construction Wages  
By Ethnic/Racial Group  
2000 Census



Source: CHPC chart based on *State of Black New York 2007*, Table 4, page 34.



Figure 5  
Percent of Non-White Apprentices by Trade, 1990s and 2000s



Source: CHPC Chart based on *State of Black New York 2007*, Table 7, page 39

Our discussions with apprenticeship training providers indicated they face great difficulty in getting their graduates into union apprenticeship programs. The training program run by the affordable housing industry with the City University of New York (LaGuardia College) apprentices its graduates to builders who support the program. It has so far been unable to place its graduates with unions. In addition, one training program has advised us that there are strict limits on the numbers of its graduates that will be permitted into union apprenticeship programs, regardless of the number that achieve required skill levels, and there are limits on how many of those who complete the apprenticeship programs are admitted to the union.

Overall these findings resonate with the findings of Annia Ciezadlo in “Invisible Men” (*City Limits*, May 2003). She reports that low wage workers have reason to oppose the unionization of their work sites because they fear that unionization will result in the transfer of jobs from lower wage minority workers to higher wage white workers. She writes of carpenters:

*Even with the passage of time, many of the rank-and-file members won't really trust the union until it changes its hiring practices.*

*Today, the union has two kinds of members: “company men” and “local men”.... If you're a company man, you'll have work for as long as a particular employer hires you. The roster of company men remains disproportionately white.*

*Local men get hired either by shaping jobs or from a massive list of unemployed workers. For every company man a contractor hires, it's supposed to hire one person from the out-of-work list. The process is monitored by the federal authorities, and union officials say the monitoring has been effective. But it's a common belief among minority members that the hiring is not happening.*

*Knowing this, nonunion workers fear that if they vote to unionize their workplace, they will end up on the out-of-work list, and their jobs will go to white members. “When the job turns union, there isn't anything in it for us, and that's a fact,” says Steve Roy, a union carpenter for six years. “And I can get 10 guys to verify this, and even more. You know how many black guys are outta work right now?”<sup>37</sup>*

Their fear is not unreasonable. True, prevailing wage jobs are higher-paying jobs; but as we see in the Hamilton, *et. al.*, higher-wage workers are disproportionately white. If a union job goes to higher-wage workers, the odds are that the ones left out will be disproportionately black and Latino.

The evidence presented above indicates further that there are restrictions on entry into union-sponsored apprenticeship programs. Moreover, completion of a union apprenticeship program does not guarantee union membership, and union membership does not guarantee a union job.

There is also anecdotal evidence that the imposition of prevailing wage requirements would significantly hinder minority-owned contracting and subcontracting firms, some of which find compliance with the prevailing wage rules difficult or impossible. Few such firms have the back-office capacity to comply with the complex reporting and oversight requirements of prevailing wages. While it is reasonable to hope that such capacity could be developed, there are few resources devoted to attaining this goal, and most minority firms fear that their businesses will go under if such a requirement were put into place.

### **Do Non-Prevailing Wage Workers Get A Fair Wage?**

Is a competitive market wage (as opposed to a prevailing wage) for skilled and unskilled labor an adequate wage? A major claim of the advocates of prevailing wage is that it prevents wage exploitation of workers by contractors. To examine this issue we have reviewed prior analysis, examined available data and queried a small number of developers who shared their payroll records with us. There were two key questions that we explored. First, are the wages being paid to workers on affordable housing projects “fair”? Second, would the imposition of prevailing wages improve earnings for those on the bottom of the scale?

A “fair wage” may be defined as a wage in a competitive labor market in which a worker is rewarded on the basis of his/her productivity.<sup>38</sup> If a worker faces discrimination or if employers are in a monopsonistic (buyer’s monopoly) position as in a “company town,” then the wage will be depressed below a level reflecting the worker’s productivity. Certainly, there are enough

construction firms to rule out monopsony. However, discrimination based on worker characteristics unrelated to their productivity probably depresses the earnings of certain construction workers—in particular, undocumented workers. And workers with

***True, prevailing wage jobs are higher-paying jobs; but as we see in Hamilton, et. al., higher-wage workers are disproportionately white.***

limited English skills will have fewer alternative job opportunities than other unskilled workers, so they, too, are likely to suffer a depressed market wage (although absence of language skills can have a negative impact on productivity, even in construction). The evidence on the city’s construction industry presented in *The State of Black New York* suggests that discrimination based on race and ethnicity may also persist.<sup>39</sup>

In a discussion of construction wages it is useful to note where we start. Construction wages in the New York City area are already among the highest in the nation. The United States Department of Labor recently noted that workers in the “Construction and Extraction” occupational group in the New York City area received wages that were 43% over the United States average. Of course, part of this differential reflects the higher cost of living in New York City; it also reflects a higher proportion of the construction labor force being paid union wage rates. However, this 43% differential for construction is much higher than the 30% differential when comparing wages for all occupations in the New York City area to wages for all occupation in the United States as a whole.<sup>40</sup>

As noted earlier in our discussion of costs, analysis of Current Population Survey data for 2007 indicates a median nonunion wage for construction workers in selected occupations (those more representative of building construction) of \$13.50 compared to a median union wage of \$19.57. There was very little difference in the extreme ends of the distributions – \$7.70 and \$7 at the bottom for union and nonunion respectively, and \$42 and \$43.62 at the top end for union and nonunion



respectively. (These figures are based on a very small number of observations, but looking at three years of data doesn't do much to change this picture.)

In order to find out what wages are on affordable housing sites not covered by prevailing wage requirements, CHPC asked a number of affordable housing developers to supply *actual* payrolls for workers on *actual* construction projects. Admittedly, these responses from a few developers are anecdotal, but they do reveal some important points.

One set of payroll reports on nearly 300 employees provided to CHPC shows that the lowest on-the-books wages were \$10 per hour, paid to about 10% of the employees. The majority of wage rates were between \$18 and \$24 per hour. In another report on 50 employees, one worker was shown at \$10 per hour, three were at \$12 or \$13 per hour, and six were at \$14 or \$15 per hour. Thus, there is evidence of low rates of on-the-books pay for the least skilled jobs. While a number of respondents report paying health benefits to workers, in some instances it is clear that no fringe benefits are paid. At the high end of the wage scale, the 50-employee report included three unspecified workers at \$50, \$65, and \$75 per hour, while reports for plumbers and carpenters showed some wages at around \$50 per hour.

In terms of what an adequate wage is, the FPI report *The Underground Economy in the New York City Affordable Housing Industry* takes a modest approach to this issue of income adequacy (p. 6). It says that a minimum standard for a wage earner should be 150% of the federal poverty guideline.<sup>41</sup> For 2007 for a single person household this level would be \$15,315 (1.5 x \$10,210); earnings at \$10 per hour would cover this amount (\$18,400). For a three-person household this level would be \$25,755 for 2007. Using typical hours (1,840 per year),<sup>42</sup> a worker would have to earn \$14 per hour to achieve an income of \$25,755. But again, it should be remembered that the guidelines are based on household income; a wage earner may be a part of a household with another earner.

Looking at public policy on this issue, we note that New York City passed "living wage" legislation in 2003 to govern minimum payment to workers on certain city contracts (not including construction). Currently, the living wage minimum is \$10 per hour plus \$1.50 per

hour for benefits.<sup>43</sup> This wage, including fringe benefits, generates an annual income of \$23,920.<sup>44</sup> Note that a typical living wage recipient works more hours than a typical construction worker. Therefore, a typical construction worker would need a \$13 per hour wage to reach \$23,920.

Thus, there is definite concern that wages are low for a good number of unskilled nonunion construction workers, even below the living wage mandated for workers on city contracts in less dangerous types of employment. Our analysis of data from the Current Population Survey suggests that approximately 23% of workers in the building construction trades earned \$10 per hour or less in 2006 through 2007. There were approximately 17,500 such workers, which must be considered a lower bound for low-paid workers given the likelihood of under-reporting by undocumented workers.<sup>45</sup> As the *City Limits* article "Invisible Men" points out, many nonunion construction workers do not receive fringe benefits from their employers, consistent with our anecdotal evidence.

However, the reality is that for many low-skilled workers in New York City's poorer communities, these jobs are better paying than many other entry-level jobs that they could get. From "Invisible Men":

*Compared to other jobs, construction work is more seasonal, unpredictable, and dangerous. Still, workers told us that for recent immigrants, even low-end construction jobs are considered a step up from other options such as dishwashing.*

In addition, there is again anecdotal evidence that entry-level positions in affordable housing construction have greater potential for advancement for those workers able to improve their skills, to the benefit of both worker and employer. One of our board members referred to this on-the-job upgrading of skills as an informal apprenticeship system. Considering that other available entry-level jobs include fast food outlets and similar jobs with limited advancement opportunity, workers in construction entry-level jobs probably have a better opportunity for advancement than in other industries.

Nevertheless, if payroll workers are receiving a very low wage and no fringe benefits, there must also be concern with the economic vulnerability of workers who are

part of what FPI labels as “the underground economy”: workers who are paid off the books or improperly classified as self-employed as a way for their employers to avoid responsibility for worker’s compensation and unemployment insurance, as well as Social Security and other taxes. Unfortunately, the only estimate of the extent of this problem in the affordable housing sector, by FPI, is so laden with unjustified and unexplained assumptions, that it is not a useful measure.<sup>46</sup> However, taking a journalistic approach in “Invisible Men”, Annia Ciezadlo provides anecdotal documentation of the nature of these problems—non-payment of wages, low wages, and unsafe working conditions.

So we are confronted, in reality with two concerns about adequate wages: some workers are receiving wages in the \$10 per hour range, and some workers are not receiving fringe benefits, notably among them, health care.

Does the imposition of prevailing wages solve these problems? For unskilled workers, only a lucky few would benefit from prevailing wage. For many of them, the imposition of prevailing wages means the loss of their job, especially if they are black or Latino—or undocumented. For these unskilled, entry-level workers, the market-determined construction wage is probably a better wage than they could get in other entry-level occupations. Combined with another working adult, it could provide a minimally acceptable family income.

The lack of fringe benefits, primarily health care, is an ongoing concern. Our own informal survey of affordable housing builders suggests that many workers do receive some health insurance, although we are unable to say what percent of workers are recipients. However, many workers in other forms of employment also lack such benefits. The solution for this problem lies not in prevailing wages (which likely increase tax burdens on working taxpayers who also lack health insurance) but in a more comprehensive approach by government to the problem of health care. Currently New York State’s Healthy New York is available to workers with modest incomes. A one-person household with an income of up to \$26,000 is eligible for this insurance; for a family of three the income eligibility ceiling rises to \$44,000.<sup>47</sup> Promoting the availability of these programs is a first step to addressing this problem. Of course, this insurance is not free. For an individual in New York City it runs

about \$250 or \$300 a month, and for a family, it is three times this amount. This is equivalent to about \$1.75 per hour out of a paycheck for the individual coverage and nearly \$6 per hour for family coverage. (Again, there may be additional income supporting a family.) More optimistically, the recent presidential election has placed the issue of universal health care high on the national policy making agenda.

*The lack of fringe benefits, primarily health care, is an ongoing concern.*

There is another category of worker that is hit hard if a prevailing wage requirement turns nonunion jobs into union jobs: the undocumented worker. For undocumented workers—and other off-the-books workers—the problem is more serious because worker’s compensation, Social Security, and Medicare taxes are not paid.

There are two contrasting positions on undocumented workers. The first position is that they should not be working at all because they are taking work away from legal workers. The second position is that they are an important part of our labor force, and they need to be legally integrated into society.

Imposing prevailing wage solves neither of these problems. First, this problem is much larger than the affordable housing industry or construction in general. Second, for those whose objective is to eliminate undocumented workers, it’s unlikely that imposing prevailing wages would achieve that because at most it would only eliminate them from the affordable housing sector.

Unfortunately, the solution to the issue of undocumented workers is, for the most part, beyond the scope of local and state government - and a problem not restricted to the residential construction industry, let alone the affordable housing component of this industry.<sup>48</sup> This problem awaits a national policy decision on whether such work should be permitted and under what legal framework.

## Conclusion

Our main conclusion is that imposing prevailing wages on the affordable housing industry reduces the amount and affordability of subsidized housing while doing little to improve the real problems faced by workers in the construction industry in general.

This is not to say that there are not real problems facing workers in the construction industry. Construction is, overall, the fourth most dangerous job in the United States. Access to better-paid, higher-skilled construction work is constrained and limited for minority workers. Many workers do not receive fringe benefits, resulting in health care costs borne by the workers and the public at large.

***Our main conclusion is that imposing prevailing wages on the affordable housing industry reduces the amount and affordability of subsidized housing while doing little to improve the real problems faced by workers in the construction industry in general.***

However, our analysis does not support the conclusion that imposing prevailing wage requirements on the affordable housing construction industry is likely to improve these problems.

The problems of construction workers who receive low wages or who work in unsafe conditions are primarily problems of the larger construction industry. To the extent that construction in general or unsubsidized residential construction is the source of inadequate wage income and unsafe working conditions, imposing prevailing wages on the subsidized sector alone does little to remedy those problems. To the extent that such problems exist, there is no evidence that these problems are any worse in the category of affordable housing than in construction in general.

In fact, the more extensive supervisory environment that surrounds subsidized housing insures that the affordable housing sector is better supervised and regulated than the industry as a whole.

Thus, solutions need to focus on the problems of the entire building construction industry and the regulatory structure that surrounds it. These include better enforcement of the wage and hour laws and better supervision of construction sites by OSHA and the New York City Department of Buildings.

Some things that are likely to improve these problems are beyond the scope of this report. Health care that is available to all regardless of employment is one challenge. Deciding what our policy should be for millions of undocumented immigrants in the United States is another. These, however, must be solved for society in general and not merely for one subset of construction workers.

## Recommendations

The following areas should be the topic of further analysis and discussion as a way of improving wages, working conditions, opportunities in the construction industry, and the construction of affordable housing.

- ***Prevailing Wages Should Not Be Applied to Affordable Housing***

Applying prevailing wages to affordable housing construction will increase its costs, reduce affordability, and not address construction issues of site safety, quality of construction, and job accessibility. Affordable housing developers, wherever possible, should be able to pay wages that actually prevail in the marketplace.

- ***Construction Workers Need Better Access to Training and Jobs***

More entry-level construction workers need better access to training and to the higher-skilled job opportunities that such training brings. The primary method to such advancement has been through union-run apprenticeship programs. As we have seen access to such training programs is not fully open to all.



construction industry would help expand job opportunities.

Hamilton, *et. al.*, have shown that there is a problem with equal access by blacks and Latinos to construction jobs and apprenticeship programs. It is incumbent on the construction industry and construction unions to develop new methods to increase opportunities for minority workers.

• ***Construction Oversight Should Be Improved***

Our review shows that safety problems exist for both union and nonunion workers, and, by implication, for prevailing wage and non-prevailing wage sites. Better enforcement of safety and construction requirements by OSHA and the NYC Department of Buildings is obviously needed. The NYC Department of Health and Mental Hygiene and the Department of Buildings along with OSHA are working to identify improvements in inspections and requirements to improve safety in construction.

Not only has the affordable housing industry in New York City been responsible for providing housing to families unable to afford it in the marketplace, but its targeted focus has revitalized whole communities that are now flourishing. Those benefits have largely remained within those same

communities and can be seen in retail development, increased local property management, renovation and construction businesses, improved city services, and population growth. With a growing need for affordable housing, the retrenchment of capital investment, a worsening recession, and a shrinking of government subsidies, the affordable housing industry is particularly vulnerable. The imposition of a prevailing wage requirement could significantly curtail one of the most vibrant sectors of New York City's economy and one of the most successful public-private partnerships of the last two decades.

One possible solution is to provide more nonunion training programs. Such programs have already been started by groups such as the New York State Association for Affordable Housing and the New York State Builders Association in cooperation with the City University at LaGuardia College. But we must ensure that graduates of such programs have access to on-the-job training as well.

Creating more consortia of employers to sponsor programs with links to training programs run by local community development organizations would expand apprenticeship opportunities to the benefit of workers and employers. More of these efforts in the

# End Notes

1 In New York City, two kinds of prevailing wages apply, *Davis-Bacon* wages, set by the federal government for federally funded projects, and *New York State Labor Law §220* wages set by the State for construction procured by state and municipal governments. Under §220 prevailing wages are defined as the wage paid under collective bargaining agreements between *bona fide* labor organizations and private employers, if such agreements apply to at least 30% of workers in a specified trade. Employers who might wish to challenge the prevailing wage schedule have the burden of proving that in any specific trade less than 30% of workers are covered by collective bargaining agreements. The Bureau of Labor Law of the New York City Office of the Comptroller is responsible for administering and enforcing the State's prevailing wage laws in New York City.

2 Introductory 733 of 2008 is the bill in the City Council. A2713 of 2007 is the bill in the New York State Assembly and S1694 of 2007 is the bill in the New York State Senate.

3 For example, Table 2 of *The Underground Economy in the New York City Affordable Housing Construction Industry* displays “Estimates of NYC Affordable Housing Workforce by Category of Worker.” The text discussing the table refers the reader to Appendix Table 1 for back-up, but Appendix Table 1 then says the methodology is “available on request.” To date, this methodology has not been provided, despite several requests. Most distressing is that the appendix table concludes that two thirds of the workers in the affordable housing sector are “underground” — either misclassified as self-employed or not “on-the-books” - based on numerous assumptions that are either not stated or not justified. This poorly documented conclusion is then repeated in a subsequent FPI paper inauspiciously titled *Building Up New York, Tearing Down Job Quality*” (FPI, December 5, 2007, p. 1).

4 Kent Gardner and Rochelle Ruffer, “Prevailing Wage in New York State: The Impact on Project Cost and Competitiveness,” Center for Governmental Research, Rochester/Albany, New York, January 2008.

5 *Building Up New York, Tearing Down Job Quality*, p. 22.

6 For example, assuming half the workers are not receiving fringe benefits, the percentage increase rises to 36 percent. This analysis is available from CHPC upon request.

7 Higher wages could induce existing workers to be more productive.

8 Data from the 2006 Quarterly Census of Employment and Wages show that, for eighteen construction trades, non-residential workers earned on average 51% more than residential workers in the same trade.

9 A 20 percent productivity gain reduces the labor cost differential to just below 60 percent, resulting in a 20 percent increase in total development costs (one-third of 60).

10 Nooshin Mahalia, *Prevailing wages and government contracting costs: A review of the research*, Economic Policy Institute, July 8, 2008.

11 *Building Up New York*, p. 22.

12 “The Effects of Prevailing Wage Requirements on the Cost of Low-Income Housing,” *Industrial & Labor Relations Review*, Vol. 59, 1, 2005, p. 144.

13 Matthew Newman, Shawn Blosser, Hilary Haycock, “Impact of Prevailing Wage Rate Requirements on the Costs of Affordable Housing in California,” The California Institute for County Government, May 25, 2004. This paper has an earlier date than the Dunn, *et. al.*, paper, even though the former relies on the latter. The working paper version of the Dunn, *et. al.*, paper was in circulation prior to the Newman, *et. al.*, paper.

14 Calculations are based on a 30 year, self-amortizing mortgage at a 6.5% rate of interest.

15 It is questionable whether there is enough of a profit margin for any substantial part of a cost increase to be borne by developers

16 Journalistic reports do identify some problems See, for example, Annia Ciezadlo, “Invisible Men,” *City Limits*, May 2003. However, that article did not consider the existence of similar problems in the unsubsidized housing sector. While there are anecdotal complaints involving some subsidized small homes construction, again it is more likely a function of scope, e.g. minimally insulated walls, rather than quality of workmanship.

17 *Building Up New York*, p. 21.

18 There are journalistic reports of workmanship problems on affordable housing sites such as “NYC’s Affordable Housing Project Costs Homeowners,” <<http://www.wnbc.com/print/10224364/detail.html>>. There are probably stories that can be written about shoddy workmanship in the unsubsidized sector. Systematic evidence of poorer workmanship in the affordable housing sector versus other construction, however, is a different matter.

19 The two projects were part of the Construction Management Program completed during the Ten Year Capital Plan. In one case a cluster of buildings that were to be renovated and turned over to the New York City Housing Authority was significantly delayed because of the installation of faulty shower bodies, and in the second case a large cluster of renovated buildings turned over to the Settlement Housing Fund in the South Bronx experienced extensive problems with the buildings’ exterior stucco as well as with drainage in the open space areas.

20 Conversation with Assistant Commissioner Nancy Clark, New York City Department of Health and Mental Hygiene.

21 Injury data is also downward biased because not all injuries are reported. It is further problematic in that injuries can be of vastly different seriousness.

22 A paper by Hamid Azari-Rad, “Prevailing Wage Laws and Injury Rates in Construction” (in Hamid Azari-Rad, Peter Philips, and Mark J. Prus , editors, *The Economics Of Prevailing Wage Laws*, Ashgate, 2005) used state data from 1976 through 1999 taken from the Survey of Occupational Injuries and Illnesses published by the Bureau of Labor Statistics to examine the relationship between non-fatal injuries rates and the presence of prevailing wage laws. The results indicate a statistically significant reduction in injury rates in states that have prevailing wage laws. However, the author writes that, “The causal processes that create the connection between prevailing wage regulations and safer construction work include the role prevailing wages play in promoting training, encouraging the retention of experienced workers and creating an environment where other regulations are followed.” The author doesn’t suggest that the higher wages themselves lead to reduced injury rates. It may well be that the apprenticeship programs required under prevailing wage result in better training and lower injury rates.

23 OSHA reports worker fatalities only and does not include pedestrians or nearby residents who may have been involved in the accident. It also includes only fatalities on site, and not subsequent deaths resulting from an on-site accident.

24 *Analysis of Construction Fatalities – The OSHA Data Base 1985 – 1989*, US Department of Labor, November, 1990, page 18.

25 OSHA regularly reports a rate of fatalities based on the number of fatalities per 100,000 workers in a category. However, these numbers are not broken out based on union versus nonunion and therefore tell very little about the differences based on union status. They do reflect overall safety rates for a particular industry, and, as such, construction is ranked the fourth most dangerous industry in the United States.

26 The Current Population Survey, which is the only large-scale government data base indicating union status of workers, does not distinguish between residential and non-residential construction.

27 The trades selected were those with a high likelihood of working in building construction. Our analysis excluded heavy construction (e.g., highways), which is likely to have higher unionization rates than building construction, and residential construction in particular.

28 We used data from the 2006 American Community Survey, which reports both place of work and place of residence, but not union status, to make our adjustment.

29 Data are taken from the 2005-2007 Current Population Survey (CPS) using the Merged Outward Rotation Group (MORG) files constructed by the National Bureau of Economic Research. The Survey asks whether the worker is a member of a union “on [the] current job.” The CPS does not provide information by place of work. The American Community Survey for 2006, which does report place of work as well as place of residence, indicates that 81% of metropolitan area construction workers employed in New York City also reside in the city. Of the 19% who reside elsewhere in the metropolitan area, the great majority (72%) are white, non-Hispanics. CPS data show a unionization rate of 41% for metropolitan area construction workers residing outside of New York City (43% for white, non-Hispanics) for the period 2005 through 2007.

FPI has estimated the rate of unionization to be 45% for 2006 (*Building Up New York*, p. 12). This relied on an assumption that New York City construction workers residing outside the city were unionized at a rate of 97.5%. Based on available data, this assumed rate seems excessively high.

30 To the extent that high-rise construction sites are inherently more dangerous than low-rise construction sites, then our fatality rates--which are not adjusted for the degree of hazard--might understate the safety record of union sites versus nonunion sites.



31 For purposes of this comparison we have assumed that HPD's gut construction will usually require a new building permit and thus be counted in the Census numbers for permits for "new" construction.

32 This connection is made in *Building Up New York, Tearing Down Job Quality*, pp.22-23.

33 Alan S. Oser, "PERSPECTIVES; Entrepreneurs' Role in Foreclosed Housing Expands," *The New York Times*, November 22, 1998.

34 Mark V. Tushnet, *Making Civil Rights Law, Thurgood Marshall and the Supreme Court, 1936-1961*, Oxford University Press, 1994, p.4.

35 Steven Greenhouse, "Settlement in Bias Suit That Stalled for 37 Years," *The New York Times*, January 16, 2008.

36 According to one of the authors, these categories do not have any overlap, so the categories "black" and "white" exclude Latinos.

37 <<http://www.citylimits.org>>

38 Economists argue that the wage in a competitive labor market should equal the "value of the marginal product," that is, how much the last worker employed contributes to revenue.

39 To test for discrimination, a more detailed analysis controlling for age, training/education, and experience, would be required.

40 United States Department of Labor, Press Release *Occupational Employment and Wages In New York-White Plains-Wayne, May 2007*, August 19, 2008.

41 This is a very modest standard compared to income adequacy determinations by other organizations such as the Economic Policy Institute, which puts the basic family budget for a New York City three-person family (two adults, one child) at \$50,652 for 2005. <[http://www.epi.org/content.cfm/datazone\\_fambud\\_budget](http://www.epi.org/content.cfm/datazone_fambud_budget)>

42 This is equivalent to a work year of 46 weeks at 40 hours per week. It is the figure used for construction workers by FPI in *The Underground Economy*, Table 3, p. 22.

43 Conversation with Jeffrey Elmer, New York City Office of the Comptroller, Bureau of Labor Law.

44 This calculation assumes a work year of 2,080 hours (52 weeks at 40 hours per week), more hours than are usual in the construction industry.

45 These are our calculations using the Merged Outward Rotation files of the Current Population Survey created by the National Bureau of Economic Research. The CPS probably under-estimates the number of low-wage workers either because of misclassification (some wage employees classified as self-employed) or because of under-representation of undocumented workers or off-the-books workers. In *The Underground Economy and the New York City Construction Industry* (p. 5), FPI reports that 26.4% (nearly 30,000) nonunion workers earned \$10 an hour or less in 2006 according to the CPS. Their base of workers includes a broader range of construction workers, but it is restricted to nonunion workers. In *Building Up New York, Tearing Down Job Quality* (p. 21) FPI reports that, "According to the CPS wage data for the past three years, roughly 45,000 New York City resident construction workers make less than \$11 an hour." Our own analysis of the 2006 CPS data puts the figure at 25,000 for *all* resident construction workers (not just those in the building trades).

46 Reiterating an earlier endnote in *The Underground Economy*, FPI concludes that two-thirds of workers in the affordable housing sector are "underground" workers. The result depends on numerous assumptions that are unexplained and/or unjustified. Moreover the methodology appears to be unrelated to any specific examination of City-assisted housing.

47 < [http://www.ins.state.ny.us/website2/hny/english/hnyeci\\_ole.pdf](http://www.ins.state.ny.us/website2/hny/english/hnyeci_ole.pdf)> New York State also provides less costly insurance under its Family Health Plus program for individuals and households with lower incomes.

48 State and local government, however, could address some of the needs of undocumented workers, such as assisting them with education and health care.







42 Broadway, Suite 2010, New York, NY 10004  
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