

City undecided about pursuing prevailing wage case for project

July 6, 2007, By Mannix Porterfield, Register-Herald Reporter

— Rebuffed in the first go-round by the failure to provide the state a required 30-day notice, Beckley Mayor Emmett Pugh isn't sure if the city intends to pursue its case against the state Division of Labor over prevailing wage in a downtown renovation project.

Kanawha County Circuit Judge Louis Bloom denied the city a preliminary injunction to block the prevailing wage while the merits of the case are reviewed, since it failed to show irreparable harm.

In essence, the case was thrown out, and there has been no decision on whether to refile it.

Beckley contended the prevailing wage didn't apply to the Neville Street project embracing the Covey and Thrifty buildings because the project was funded entirely with \$1.4 million in a federal Housing and Urban Development grant.

But the Affiliated Construction Trades Foundation disagreed, and, after joining the litigation, pointed out the project initially was launched with \$300,000 in a state grant — obligating it to heed the prevailing wage law.

"The whole case is based on a lie," Wayne Rebich, an ACTF leader in Beckley, contended Thursday.

"It's a waste of money to fight something. They can file again. I went to city council and the mayor and urged them not to do so."

Pugh said he hadn't had an opportunity to discuss the case further with the city's legal adviser, Bowles, Rice, McDavid, Graff & Love of Charleston.

"We haven't ruled it out," the mayor said.

"The whole issue here is the prevailing wage and does it have to be paid. The Division of Labor says yes, but we do not agree with that. We'd like for someone other than the Division of Labor to tell us. If an independent party says yes, you owe it, then so be it. And that's the way the project will be developed."

Pugh disagreed that the original funding from the state tied the city to the prevailing wage since that money was used to purchase the property, which then was deeded to the Raleigh County Commission.

"The city does not own the property," Pugh said.

"We received a grant. We're using Forward Southern West Virginia as our agent on the project. We do not own the property. We're just developing it, and only with federal money."

Morgantown attorney Vincent Trivelli, who is representing the labor group since it was allowed to intervene, feels the state's prevailing wage must be heeded by the city.

"It is a project funded jointly by state and federal money," he said.

"In our mind, clearly state money is involved in this. You can't break this project into little pieces. It's fiction to say it's really a federal project. The law is defined so that you don't bring down the wages of a community by using public money to undercut the wages in the area. That's exactly what the law is designed to prevent."