


Pursuant to 56 Illinois Administrative Code 120.650, the Director of Labor shall render a decision and issue an order on the objections pursuant to 820 ILCS 130/9, 56 Illinois Administrative Code 120.100 – 120.670. A certified copy of the final administrative decision shall be filed with the Secretary of State, and a copy served personal service or certified/registered mail on all parties to the proceeding.

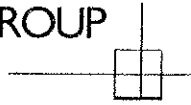
The proceedings under this hearing are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 - 3-113. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101-113.


Catherine M. Shannon

Director of Labor

THE GARY LAW GROUP

A Professional Corporation



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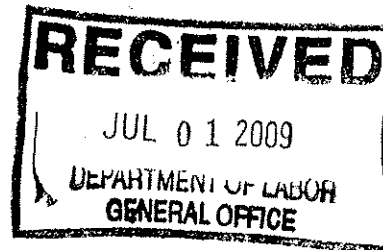
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Dear Sirs:

On behalf of A-1 Lock, Inc., the undersigned files this request and Objection pursuant to 820 ILCS 130/4 and 9. A-1 Lock, Inc., is an interested and/or affected party pursuant to the Illinois Prevailing Wage Act, 820 ILCS 130/9 et seq., (hereinafter "IPWA"). A-1 Lock of Springfield, Illinois is a locksmith agency, licensed by the Illinois Department of Professional Regulation pursuant to 225 ILCS 447/5-10 et seq, commonly referred to as the Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004 (hereinafter "2004 Act").

Having reviewed the Illinois Department of Labor's (hereinafter "Department") determination of applicable prevailing wage rates for the counties in Illinois, published, June 2, 2009, A-1 Lock notes that no wage classifications have been established for locksmith services defined by the 2004 Act. Therefore, A-1 Lock requests the following:

- (1) That pursuant to the invitation of the Department in its explanations section entitled "Other Classifications of Work" at the end of the published rates, the Department, after an investigation, make a "special determination" as to whether a locksmith rate should apply to locksmith services, and the rate of pay for such services; or, in the alternative,
- (2) To establish a locksmith classification, and/or to hold a hearing to establish such a classification pursuant to §4 of the IPWA; or,

MIDWEST:
3150 ROLAND AVENUE
SPRINGFIELD, ILLINOIS 62703

EXHIBIT A

WEST COAST:
2000 ONE MAIN PLACE
101 SW MAIN PLACE, SUITE 2000
PORTLAND, OREGON, 97204

- (3) Requests the Department consider this correspondence as A-1 Lock's Objection pursuant to §9 of the IPWA, of the rates published June 2, 2009, for the Department's failure to include a locksmith classification and rate.¹

A-1 Lock requests a hearing or meeting with the Director of the Department, and/or authorized representative, to present the legal and factual bases for its requests and Objection. A-1 Lock specifically reserves the right to present evidence in support of its requests and Objection, and to supplement the record with further legal and factual bases therefore. A-1 Lock's positions are based upon the Department's failure to investigate and establish a prevailing rate of wages for locksmiths in Illinois.

INTRODUCTION

A. A-1 Lock, Inc. and its Locksmiths are Licensed Pursuant to the Private Detective, Private Alarm, Private Security and Locksmith Act.

Since the enactment of the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993 (225 ILCS 446/1 et seq, hereinafter "1993 Act"), locksmiths in the State of Illinois performing locksmith services are required to be licensed. In both the 1993 and 2004 Acts, the legislature clearly stated that for the protection of Illinois citizens, and for the advancement of public safety, only licensed locksmiths are permitted to perform locksmith services. 225 ILCS 447/5-15 (formerly 225 ILCS 446/10).

The work performed A-1 Lock for public entities has always been locksmithing pursuant to the 1993 and 2004 Acts. Its services are defined by statute. And as an agency made up of professional locksmiths, those locksmiths are obligated to comply with the 1993 and 2004 Acts.

B. Only licensed locksmiths are permitted to perform locksmith services

Pursuant to the 2004 Act effective August 15, 2003, "locksmith" is defined as:

a person who engages in a business or holds himself out to the public as providing a service that includes, but is not limited to, the servicing, installing, originating first keys, recoding, repairing, maintaining, manipulating, or bypassing of a mechanical or electronic locking device, access control or video surveillance systems at premises,

¹ A-1 Lock submits these requests and Objection without prejudice to its claims for relief in Case No. 06-MR-99, pending in Sangamon County Circuit Court. A-1 Lock has requested on numerous occasions an opportunity to meet and confer with the Department regarding its apparent application of up to 4 distinct wage classifications for work performed by locksmiths, and has been informed as recently as June 29, 2009 that the Department is not willing to meet with A-1. A-1 Lock is forced to address the issue through the objection and hearing process provided for in the IPWA. A-1 Lock does so without prejudice to any defenses it may have to any alleged violation of the IPWA.

vehicles, safes, vaults, safe deposit boxes, or automatic teller machines.

Pursuant to both the 1993 and 2004 Acts, the statutes require that locksmiths performing these services maintain a license. Both the 1993 and 2004 Acts state as follows:

It is unlawful for any person to act as private detective, private security contractor, private alarm contractor, or locksmith, or to advertise or assume to act as any one of these or to use any other title implying that the person is engaged in any of these practices unless licensed by the Department. The Department is the Illinois Department of Professional Regulation. [Emphasis added].

It is clear that by criminalizing the practice of locksmithing without a license, the legislature foresaw the risk to public safety and welfare that such conduct posed. Not merely a pro forma requirement, the license prerequisite is a means to protect the citizens of Illinois. A-1 Lock's work as a locksmith agency clearly falls within the definition of "locksmith services" as set forth in the 1993 Act, as well as "locksmith" as amended in the 2004 Act. A-1 Lock's work involves the retrofitting of existing mechanical and electric locking devices, the maintenance and repair of mechanical and electronic locking systems, the re-coding of locks, and the cutting of keys. Clearly these professional activities are within the definitions of "locksmith services" and "locksmith" in the 1993 and 2004 Acts respectively.

D. Requirements

A-1 Lock has been a licensed locksmith agency since licensing was required. In order for any person to receive a license as a locksmith, that individual must meet such specific requirements as the following:

1. 18 years of age;
2. Has not violated any provisions of Section 120 of the Act (disciplinary sanctions, conviction of a felony, professional incompetence, fraud, or material deception in obtaining a license, performing services in a grossly negligent manner, etc.);
3. Has not been convicted of any felony in the last 10 years;
4. Is of good moral character;
5. Has not been declared incompetent;

6. Is not suffering from habitual drunkenness or narcotic addiction;
7. Has not been dishonorably discharged from any of the armed services in the United States;
8. Has passed the physical examination authorized by the Department;
9. Has submitted proof of insurance sufficient for business circumstances.

Applicants for a license must successfully pass an examination. 225 ILCS 447/10-35 (formerly 225 ILCS 446/95). The prerequisites and examination requirements are meant to screen from licensure any unqualified/incompetent individuals, and perhaps more importantly, any individuals who might pose a risk to safety. And pursuant to best practices, A1- Lock provides its locksmiths with comprehensive and detailed training for the performance of locksmith services.

E. Board of Professionals

Further, the Act provides for the appointment of an Illinois Private Detective, Private Alarm, Private Security, and Locksmith Board (Section 45 of the 1993 Act, Section 50-10 of the 2004 Act) which consults with the Department when promulgating rules and recommendations with regard to standards and criteria for registration, certification, professional conduct, and discipline. (Section 50 of the 1993 Act, Section 50-20 of the 2004 Act).

F. A Clearly Defined Statutory Scheme to Authorize Locksmith Service.

It is clear that by enacting the 1993 and 2004 Acts, the Illinois State Legislature has promulgated a comprehensive statutory scheme for the protection of the public and advancement of public safety by requiring that locksmiths performing locksmith services be licensed under strict requirements. To become a licensed locksmith, necessary statutory prerequisites must be met, and through its administrative role, the Department of Professional Regulation exercises its discretion in determining whether such licenses should be issued. By the enactment of such statutory strictures, the legislature has clearly intended to limit the provision of locksmith services in the State of Illinois to qualified licensed individuals and agencies for the protection of the public interests. The legislature has clearly defined who may be a locksmith.

Secondly, the legislature has defined through the Acts those professional activities which constitute locksmith services. These services include the installation, repair and maintenance of mechanical and/or electronic locking systems. And since 2003, locksmith services also includes the installation of electronic surveillance systems. Further, the statutes codify that it is illegal to perform such services without a license issued by the Department of Professional Regulation. These statutory requirements - the issuance of licenses, the power and authority of the Department of Professional

Regulation to regulate the profession, the determination of what services constitute locksmith services, the appointment of a Board to assist with promulgation of rules - all evince a comprehensive regulatory structure of locksmiths which specifically set the profession apart from buildings trades - such as carpenters, electricians, and electronic technicians. In its failure to establish an independent wage classification and rate for locksmiths, the Department has failed to apply the legal distinction of locksmiths as established through the 1993 and 2004 Acts, and has abrogated its duties pursuant to the IPWA. The Department has failed to consider that locksmiths' services require the issuance of a license pursuant to 225 ILCS 447/5-10.

The declaration of the policy of the State of Illinois with regard to the Prevailing Wage Act is set forth in Section 1 of the Act. The Act states that a wage:

not less than the general prevailing hourly rate as paid for work of a similar character in the locality for which the work is performed shall be paid to all laborers, workers, and mechanics employed by or on behalf of any and all public bodies engaged in public works.

820 ILCS 130/1.

Pursuant to the 1993 Act, the following activities were defined legislatively as constituting the practice of locksmithing:

The servicing, installing, originating first keys, recoding, manipulation, or bypassing of mechanical or electronic locking devices at premises, vehicles, safes, vaults, safe deposit boxes, or automatic teller machines.

Therefore, the servicing of mechanical or electronic locking devices, the installing of mechanical or electronic locking devices, the originating of first keys, and recoding of mechanical or electronic locking devices are all within the definition of locksmithing pursuant to the 1993 Act. Pursuant to the 2004 Act, which was approved and effective August 5, 2003, the definition of locksmith became:

A person who engages in a business or holds himself out to the public as providing a service that includes, but is not limited to, the servicing, installing, originating first keys, recoding, repairing, maintaining, manipulating, or bypassing of a mechanical or electronic locking device, access, control or video surveillance system at premises, vehicles, safes, vaults, safe deposit boxes, or automatic teller machines.

The 2004 Act incorporated the definitions of “locksmith” and the “practice of locksmithing” as set forth in the 1993 Act and included as part of those services the servicing or installing of “access control video surveillance system[s]”. (See 225 ILCS 447/5-10).

Originating first keys is a process whereby a locksmith will make keys from scratch, that is, either from hand-stamping of a key or by recoding a key by an applicable code which coordinates the key with a particular lock. Originating first keys is different from “duplicating a key” which one might have undertaken at a hardware store where a key cutting machine can be operated by one of the hardware store employees.

Recoding involves the recombination of a lock. This can usually be done by changing the pins on an existing lock to “recombine” it which then changes the mechanism of the lock thereby requiring a new key, or, by replacing a lock core with a new and different core with a different combination. Recoding of a lock infrequently requires the replacement of the entire locking device.

Electronic locking devices, access control and video surveillance requires the installation and maintenance of locking control mechanisms, access panels, card readers and video equipment which utilize low-voltage electric connections.

The Department has indicated its intent to apply wage classifications of carpenters, electricians, electronic system technicians, and truck drivers to the provision of the statutorily defined locksmith services on public works projects. The application of such a large number of wage classifications to one task, i.e. installing an electronic locking device, which is defined as “locksmith” work by statute, creates a significant burden not only to locksmiths, but to public entities and the Department as well. Because the overwhelming majority of locksmith work is installation and maintenance on existing buildings and not performed on new construction, the ability of locksmiths, let alone local public entities, to describe with accuracy prior to the beginning of work how much of a particular job will require carpentry work, electronic systems tech work, or electrician work, will be significantly impaired due to the number of potential wage classifications which could apply. Furthermore, unlike landscaping or concrete work, locksmiths are often called to work for local government and State agencies on an emergency basis to address immediate security concerns. In such instances there is no time to undertake a detailed analysis of how much time will be required to work on the mechanical aspects of a lock system as opposed to the low voltage electronic aspect of the project. The Department’s refusal to establish an independent rate for locksmiths may compromise the safety of governmental workers and property.

July 1, 2009

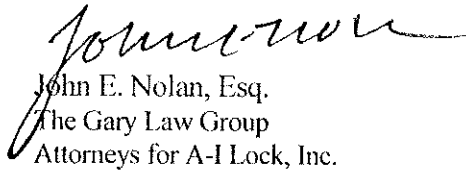
G. A-1 Locks Interest

A-1 Lock, and the other licensed locksmiths and agencies in the State, have an interest in providing statutorily-defined services to governmental entities every day. The State of Illinois and local governmental entities have an interest to secure the safety of its employees, citizens and property with services from licensed locksmiths. Heretofore, the Department has failed to undertake the necessary steps to investigate and to establish a locksmith rate, despite being aware of the existence of the 1993 and 2004 Acts.

Therefore, A-1 Lock, as an affected party or interested party is entitled to have the Department fulfill its obligation to undertake a special determination, or in the alternative, to assist in establishing an independent locksmith rate through Departmental hearings, and if necessary, judicial review.

Please contact me if you have any questions or concerns.

Sincerely,



John E. Nolan, Esq.
The Gary Law Group
Attorneys for A-1 Lock, Inc.

cc: A-1 Lock, Inc.

July 1, 2009

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1 West Old State Capitol Plaza
3rd Floor
Springfield, Illinois 62701-1217



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JUL 2 2009

~~ILLINOIS DEPARTMENT~~

Illinois Department of Labor
State of Illinois Building
160 N. LaSalle St.
Chicago, Illinois 60601

Dear Sirs or Madams:

On behalf of the Allied Locksmiths for Illinois Locksmith Association, the undersigned objects and protests the Illinois Department of Labor's Wage Rates and Classification as posted for June 2009, pursuant to 820 ILCS 130/4 and 9, and adopts by reference, as if set forth fully herein, the Objection and basis therefore set forth by A-1 Lock Inc., of Springfield, Illinois. The Association objects that no provision has been made for a wage classification for locksmith work as defined by statute at 225 ILCS 447/5-10 et. seq. The Association requests that it be a party to all administrative proceedings held relating to the Objection, and be allowed to present evidence and legal argument in support of its position.

Very Truly Yours,

Kathy Zaniolo
Director of Operations

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing:

1: NOTICE OF HEARING

prior to 4:30 p.m. on JULY 14, 2009, to the following addresses shown below

via certified U.S. Mail:

John E. Nolan
The Gary Law Group
3150 Roland Ave.
Springfield, IL 62703

And

Kathy Zaniolo
Allied Locksmiths for Illinois
6810 W. Roosevelt Rd.
Oak Park, IL 60304

Via messenger:

Michael Haggerty
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601

Zalanda Griffin

Subscribed and sworn to before me this 14 day of July, 2009.

Ann Harrison

Notary Public

My Commission Expires 04-05-2012

