



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

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Press Release

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MAYOR BLOOMBERG ANNOUNCES SUIT TO INVALIDATE THE CITY COUNCIL'S RECENT PREVAILING AND LIVING WAGE LAWS

SUIT ARGUES THAT THE LOCAL LAWS ARE INCONSISTENT WITH STATE AND FEDERAL LAW AND UNLAWFULLY CURTAIL POWERS GIVEN TO THE MAYOR UNDER THE CHARTER

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New York, July 27, 2012 – Mayor Michael R. Bloomberg announced today the filing of a lawsuit against the Council of the City of New York challenging the validity of two local laws recently enacted over the Mayor's veto: Local Law 27 (the Prevailing Wage Law), and Local Law 37 (the Living Wage Law).

These local laws would require many industrial companies and real estate developers that receive financial assistance from the City, as well as certain landlords who rent office space to the City, and many contractors or subcontractors of those companies, developers and landlords, to pay wages that are well above the State's minimum wage to their employees who work on the premises.

When he vetoed these laws, the Mayor stated that he believed that they would harm the City's efforts to attract and generate the business activity that is necessary to support the local economy and the services of City government, and would make the City a less desirable place to do business. He also stated that the laws would make City agencies less attractive tenants to affected landlords, especially in parts of the City where the City's tenancy might be most beneficial as a spur to economic development.

The lawsuit, brought by the New York City Law Department on behalf of Mayor Bloomberg, sets forth ten grounds why these local laws are invalid. These arguments fall into two basic categories:

- First, the suit alleges that the laws are "pre-empted," or overridden, by State and Federal laws. For example, because the State has its own minimum wage law, the City is prohibited from enacting laws that require certain employers to pay higher wages.
- Second, the suit claims that these local laws unlawfully limit powers given to the Mayor under the Charter. Such limiting laws are only valid if they are approved by the voters in a referendum, which these were not. For example, the Charter allows the Mayor to sell City property upon terms that he determines to further the public interest, including for economic development purposes. By imposing additional requirements on City economic development projects, the local laws unlawfully limit this power and exceed the Council's role in land use review.

As the Mayor said in his veto message regarding the Living Wage Bill, "The creation of well-paying, sustainable jobs has never been more critical to New York City residents and to the future of the City's economic health, which is why we have waged an aggressive ten-year campaign of job creation and workforce skill development that is designed to help expand economic opportunity for all New Yorkers. . . . [These laws] — which would increase the costs associated with development by mandating higher staff

costs for projects receiving financial assistance from the City — would erase the competitive advantage induced by this assistance. It will make it harder for companies — which have the option to do business anywhere — to make decisions to invest in New York.”

Corporation Counsel Michael A. Cardozo added, “By these local laws, the Council seeks to impose a regulatory minimum wage upon selected sectors of the City economy that are remote from direct City involvement. For good reason, the Court of Appeals has held that minimum wage regulation is a subject matter reserved to the State. To the extent that the local laws frustrate the purposes of State laws and interfere with State economic development programs, they are pre-empted. The local laws are also invalid because they purport to set the terms under which the City may acquire an interest in real property or may dispose of real property for development projects, thus improperly limiting powers given by the Charter to the Mayor.”

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