

**Labor Standards Advisory Commission  
Meeting Minutes**

Minutes prepared by: Megan Jackson

November 27th, 2018

3:00-5:00pm

Central Building Conference Room- 810 3<sup>rd</sup> Ave Seattle, WA 98104

**Attendees**

Commissioners Present

Position No.	Name
2	Anthony Burnett
3	Anna Boone
5	I-Miun Liu
6	Andrew Beane
8	Artie Nosrati
11	Kellis Borek
12	Mona Smith
14	Alia Abboud
15	Janet Chung

Commissioners Absent

Position No.	Name
4	Nicole Grant
13	Rebecca Smith

Commission Positions Pending Confirmation/Vacant Commission Positions

Position No.	Name
1	Elizabeth Ford
7	Betsy McFeely
9	Vacant
10	Samantha Grad

**Presenters:**

Karina Bull, Policy Manager, Office of Labor Standards

Martin Garfinkel, Director, Office of Labor Standards

Katie Jo Keppinger, Enforcement Manager, Office of Labor Standards

Kerem Levitas, Business Engagement and Policy Specialist, Office of Labor Standards

**Call to Order**– Andrew Beane and Kellis Borek

- Welcome
- Approval of August Meeting Minutes
  - Minutes are unanimously approved

**Misclassification**

- Update on state legislation
  - State working on a simpler test to streamline classification
  - Proposed legislation will be introduced in January
- Creation and Goals of the Misclassification Subcommittee

- Report on what's in state legislation and make recommendations on whether LSAC as a body should do something to support, oppose, or stay neutral. If the legislation fails, the Subcommittee will make recommendations to the City and evaluate the Legislative Agenda passed.
  - Report-outs would probably happen in February and again in summer.
- **Subcommittee Volunteers**
  - Liz Ford- Labor
  - Artie Nosrati- Labor
  - Rebecca Smith- Labor
  - Kellis Borek- Employment
  - Mona Smith- Employment
  - Kerem Levitas will be the OLS point of contact

### **Enforcement Case Stories**

- In 2018, OLS has reached agreements with about 150 employers in the amount of roughly 2 million dollars.
  - **Painting Industry**
    - OLS conducted trainings and focused outreach efforts on Painters and Decorators of America to encourage compliance among competitors.
    - Phinney Ridge Painting
      - Small/medium sized company with violations involving Wage Theft, Paid Sick and Safe Time, and Fair Chance Employment.
      - OLS investigator reached agreement with employer- settled for about 120K with 32 workers receiving remedy payments
    - Danilo's Painting
      - Owed more than 16k in back wages and interest to 3 workers and failed to pay OT and paid rest breaks
  - **Ballard Annex Oyster House**
    - Large employer with multiple restaurants. Workers employed at one restaurant were sometimes scheduled at other restaurants and exceeded 40 hours/week between the locations without receiving OT pay.
    - Employer agreed to pay back wages to 7 employees reflecting the correct MW for a large employer
    - The total remedy including small penalty to City was \$29,264.04.
  - **Forever 21**
    - Retailer had been scheduling employees normally working outside of the city for Seattle shifts exceeding 2 hours without paying the Seattle minimum wage.
    - 36 employees were affected and received remedy payments in a negotiation with Forever 21.
  - **Commissioner Questions**
    - Most cases seem to end in settlements, but not all. How does collecting employer payments work in cases that don't end in a settlement agreement?
      - Unpaid settlements and orders are forwarded to the City Attorney's Office- they will obtain judgement and seek to enforce.
      - Director's Finding becomes a final order of the agency that can be appealed. If appealed, it goes to a hearing examiner and a City Attorney represents OLS.
  - Does the money go to the complainant and fines go elsewhere?

- The vast majority of the payment goes to workers, though the Ordinance has a schedule of different fines and penalties that go to the City.
  - In many cases, OLS negotiates an agreement with the employer to pay those fines to the employees.

## OLS Update

- Budget & Hiring
  - OLS was able to get 3 new positions budgeted in 2018- Sr. Investigator, Policy Analyst, and Sr. Data Specialist.
  - In 2019, will have 2 additional positions
    - Policy Analyst will work with Domestic Workers Board and propose new amendments or policy initiatives to address conditions faced by domestic workers.
    - Domestic Worker Engagement Specialist will support outreach to workers and households employing domestic workers.
    - The Domestic Workers Board is to meet by end of first quarter of 2019.
- 2019 Prep
  - Advance notice of 2019 minimum wage
    - Large employees- \$16
    - Small Employers- \$15 or \$12 with tips/payments toward medical benefits
      - An insert with these updates has gone out with business license renewals
  - 2019 checklist
    - Lists everything that employer needs to do for the upcoming year (carryover, employee notices, prep for Domestic Workers Ordinance, etc.)
  - Poster announcement
    - 2019 workplace poster available December 1st
    - Poster to be mailed to all registered businesses
- Omnibus Ordinance
  - Currently in initial stages. There will be a formal stakeholder process regarding proposed changes.
  - Primarily tailored to streamlining and refining enforcement mechanisms to address things that hamper closing cases and getting remedies to workers.
    - Penalties- there are currently penalties available under our ordinance for certain violations that can be paid only to the City and not to the worker if a case goes to finding. OLS proposing a revision that would allow those penalties to be awarded to workers at the Director's discretion (this will not increase the penalty).
    - Poor Record Keeping- Sometimes poor record keeping on behalf of the employer makes it impossible to calculate damages. Proposing a remedy for a set amount depending upon the period of violation that would be recoverable by employees.
      - Investigators currently need to have something reasonable to extrapolate from to determine worker remedies. The worst kept records or lack thereof don't allow for reasonable extrapolation.
    - Enforcing Subpoenas- OLS wants to expand restriction on employer to refuse to comply with subpoena and then use the withheld documents to challenge the amount of damages.
    - FCE

- Remedies- Would like to add equitable remedies as those available are not in line with those of other ordinances. The worker can only be awarded \$533.
    - Sometimes in the middle of employment, an employer who already knew about someone's record runs a background check and terminates employment. The ordinance doesn't currently address this situation.
    - FCE doesn't allow for private right of action- want to align that with other ordinances to provide private right to sue.
  - Technical Fixes-
    - Domestic Workers Ordinance- requires MW and WT protections, but MW and WT Ordinance are silent as to those requirements. Need references to those requirements in MW and WT ordinances.
  - PSST
    - Inconsistency with state law- under state paid sick leave employees have a right to recover lost commissions. Our law has language stating that there is no right to recover lost commissions. This was an oversight that should be corrected.
- Commissioner Questions
  - Confusion regarding commissions and PSST.
    - The correction is meant to make our rules match state rules because Seattle is supposed to have the same or more generous provisions and the oversight does the opposite.
  - Timeline?
    - 1<sup>st</sup> quarter of 2019

### **State Legislative Agenda Update**

- OLS made recommendations re economic justice that were accepted by the Mayor's Office.

### **Scheduling 2019 Meetings**

- Chosen meeting day/time- 1<sup>st</sup> Wednesday of the month on quarterly basis from 2:30-4:30. The Q1 meeting will be held in February.
- Doesn't need to be held in Boards and Commissions Room if unavailable.

### **February Agenda Planning**

Report-out from Misclassification Subcommittee  
Update on Omnibus Ordinance

### **Adjourn**

### **Next Commission Meeting**

November 6<sup>th</sup> from 2:30-4:30 pm in the Central Building lobby large conference room- 810 3<sup>rd</sup> Ave

### **Follow-up Items**

- On 11/30/18, OLS sent commissioners an email with the following items:
  - 2019 Employer Checklist
  - Business License Insert (included in the City's business license renewal packet)

- 2019 City's State Legislative Agenda
  - Soon, the agenda will be posted on the City's website, [here](#).
  - In the meantime, here is a very brief excerpt regarding the City's commitment to economic justice

"We support economic justice and recognize that too often economic growth is not equitably shared by all, and can leave behind low-income residents, immigrants, the LGBTQ population, and people of color. We are proud of Seattle's commitment to improving workers' lives through enlightened labor standards and want to ensure that state legislation complements but does not preempt our workplace protections. We need innovative strategies to ensure that the benefits of technology and the changing nature of work do not adversely impact the least advantaged in our communities. Seattle supports policies that help workers who are misclassified as independent contractors gain access to critical workplace rights and protections. We also support policies that make benefits portable, especially for gig economy workers."