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ABLI, LIBI & ABC SUE TO PROTECT OUR REGION'S SMALL- & MID-SIZE BUSINESS OWNERS, AS COALITION CONFRONTS UNCONSTITUTIONAL APPRENTICESHIP PROGRAM REQUIREMENTS

Long Island contractors, many of whom are family owned & employ hundreds of Long Islanders, are being unfairly targeted and disqualified from work contracts due to illegal town ordinances

Current rules increase costs for development on Long Island and further harm the region's economic viability & competitiveness

Hauppauge, NY (September 26, 2018) – The Association for a Better Long Island (ABLI), the Long Island Builders Institute (LIBI), and the Associated Builders & Contractors (ABC), together with Opal Construction, have filed a lawsuit against the Town of Babylon constitutionally challenging an illegal ordinance on the Town's books. The Town's ordinance requires contractors to adhere to and administer apprenticeship programs for private development projects over 100,000 sq. ft. Pursuant to Babylon Ordinance § 89-13.1, any contractor who does not maintain said apprenticeship program is expressly disqualified from performing work within the Town on projects over 100,000 sq. ft.

This ordinance in the Town of Babylon, as well as other similar laws in seven (7) other Long Island municipalities, require contractors of any size to maintain and participate in a costly apprenticeship program in order to be eligible to perform work in each respective town. The plaintiff in the most recently filed lawsuit, Opal Construction, incurred more than \$15,000 in administrative costs alone to become affiliated with an apprenticeship program after the Town of Babylon arbitrarily determined that they did not comply with their apprenticeship program requirement. Saddled with the excessive upfront

fees and subsequent ongoing costs, smaller contractors like Opal are now struggling to survive. This illegal requirement can cost developers millions in additional costs as a result.

“The onerous and burdensome apprenticeship ordinances are unconstitutional and create scenarios that, ultimately, make it difficult for Long Island to thrive and remain competitive,” said Kyle Strober, ABLI’s Executive Director. “We are resolute in our efforts to see these ordinances overturned, as they not only put small- to mid-sized contractors at a competitive disadvantage, the ordinances directly inhibit growth across Long Island.”

Opal Construction, a local, independently-owned construction and paving company, successfully bid on and won a paving and construction project on Route 110 in Babylon. After winning the bid, Opal’s crews began to engage in some clearing of the site while waiting for the requisite demolition permit from the Town, which would allow further work to be completed on the site. Upon Opal representatives attempting to obtain the demolition permit for the project, the Town issued a stop work order, citing Opal’s alleged non-compliance with Babylon’s apprenticeship program requirement. Opal was paid for full performance of the work completed but was forced to assign the bid to another company due to the stop work order. The company lost millions of dollars in business as a result.

“The Long Island Builders Institute is very proud to work with ABLI and ABC to continue to remove artificial and nonproductive barriers for our contractors to work in the Town of Babylon, as we were successful in the Town of Oyster Bay,” said Mitchell H. Pally, Chief Executive Officer of LIBI. “No company, whether union or non-union, should be precluded from bidding on work being performed by a private developer on a private development.”

Associated Builders & Contractors, partnering with ABLI & LIBI, is stands with Opal Construction Corp. in this filing against the Town of Babylon.

“The Town clearly overstepped its authority, bowing to the pressure of the labor unions, by imposing illegal apprenticeship mandates on private work even after they were warned against doing it,” said Brian Sampson, President, Associated Builders & Contractors of New York State. “This should serve as a warning to other Towns to avoid passing legislation that impedes growth and hurts taxpaying constituents or they too could face litigation.”

The Town of Babylon is the third Long Island town to face litigation regarding its apprenticeship requirement. An almost identical version of the ordinance that existed in the Towns of Islip & Oyster Bay was challenged in court, separately, and both resulted in preliminary injunctions, allowing development to continue without this unduly burdensome and unconstitutional requirement. Recently, Town of Brookhaven Supervisor Ed Romaine issued a statement that the requirement would not be enforced in the Town of Brookhaven until the Town of Oyster Bay case was resolved.

The lawsuit against the Town of Babylon, filed by Stokes Wagner on behalf of Opal Construction, petitions for a Temporary Restraining Order (TRO); Declaratory and Injunctive Relief; and Monetary Damages.

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