

## Council charades ; Worcester mustn't revive illegal REO

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The battle over a responsible employer ordinance (REO) in Worcester should have ended months ago, with City Manager Michael V. O'Brien's February decision to stop enforcing a measure that had effectively been declared unconstitutional. Unfortunately, a majority of the Worcester City Council continues to bow to the pressure of organized labor and push for a revised version of a measure that would be bad for business, bad for taxpayers and stand no chance of surviving a legal challenge.

Both legal precedent and common sense suggest that Worcester should have nothing to do with a revival of an REO in any form.

The legal case was clearly spelled out last October in a decision by U.S. District Judge Rya W. Zobel, who granted the Utility Contractors Association of New England Inc. (UCANE) summary judgment in their challenge of a similar REO in the city of Fall River.

That REO had effectively prevented contractors and their workers from bidding on local public construction projects in Fall River. In no uncertain terms, Judge Zobel ruled that the ordinance's various requirements - including residency, health-care provisions, and apprentice program rules - violated state and federal rules and constitutional principles.

Chief among those principles is the Privileges and Immunities Clause of the U.S. Constitution.

In the case-law language cited by Judge Zobel, that clause prevents "discriminatory treatment of citizens from other states," and, by extension, residents of other communities within a state, and aims to prevent states (and municipalities) "from adopting highly protectionist economic policies."

The REO that had been in place and enforced in Worcester until February differed very little from the Fall River one. For years, that ordinance had effectively shut out many of the city's well-established, reputable contractors from bidding on public work in the same city where they do business and where they and many of their workers live and pay taxes.

The city manager's decision to stop enforcing the REO has already attracted additional bidders for public construction work.

Dropping the REO is not a matter of being antiunion, nor is it an attempt to permit companies to evade existing laws, including prevailing wage rules, or workplace safety rules.

Rather, it's a matter of respecting a federal court ruling and abiding by common-sense economic principles.

Simply put, the disappearance of this antiquated ordinance promotes competition by putting union and nonunion labor on an equal footing, forcing every bidder to be more efficient.

That, in turn, will mean expanded opportunities for all workers and, by reducing the costs of public construction projects, will protect the interests of taxpayers. Worcester city councilors are surely aware of the Fall River decision. Their continued attempt to carve out a protected enclave for organized labor may win some votes at the next election, but it cannot succeed in the end, and may along the way cost the city thousands of dollars in litigation, inflated construction costs and lost opportunities for thousands of well-qualified workers.