

ORDINANCE #67423
Board Bill No. 371

An ordinance pertaining to displaced building service workers; enacting the Displaced Building service workers Protection Ordinance; requiring employers to protect building service workers whose buildings, service contracts or subcontracts are sold for a minimum of 90 days at current pay and benefit levels; requiring that any work force reduction during the 90 day period must be made on a seniority basis, and recently released employees are entitled to preferential hiring and a right of first refusal; requiring that employers provide a written evaluate a worker's performance after the 90 day period and, if satisfactory, offer such employee continued employment; further providing for termination for cause and drug testing; containing definitions and a penalty clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Section 1: Title. This Ordinance may be cited as the Displaced Building Service Workers Protection Ordinance.

SECTION TWO. Definitions.

For purposes of this ordinance the following terms shall apply:

"Building service" means work performed in connection with the care or maintenance of an existing building and includes, but is not limited to, work performed by a watchman, security officer, door staff, building cleaner, maintenance technician, handyman, janitor, elevator operator, window cleaner, building engineer and groundskeeper.

"Building service contract" means a contract let to any covered employer for the furnishing of building services and includes any subcontract for such services.

"Building service contractor" means any person who enters into a building service contract.

"Building service employee" means any person employed as a building service employee by a covered employer who has been regularly assigned to a building on a full or part-time basis for at least 90 days immediately preceding any transition in employment subject to this Section except for (i) persons who are managerial, supervisory, or confidential employees, provided that this exemption shall not apply to building engineers for existing properties, (ii) persons earning in excess of \$25 per hour from a covered employer, and (iii) persons regularly scheduled to work fewer than 6 hours per week at a building.

"City of St. Louis" means any administration, department, division, bureau, board or commission, or a corporation, institution, or agency of government, the expenses of which are paid in whole or in part from the City treasury.

"Covered employer" means any person who owns or manages real property, either on its own behalf or for another person, or any person who contracts or subcontracts with an owner or manager of real property within the City of St. Louis for real estate, including, but not limited to, housing cooperatives, condominium associations, building managing agents, and any building service contractor provided, however, that the requirements of this Ordinance shall not apply to (i) residential buildings under 50 units, (ii) commercial office, institutional, or retail buildings of less than 70,000 square feet, (iii) any building in which the City of St. Louis or any governmental entity, the head or majority of members of which are appointed by one or more officers of the City of St. Louis, occupies 50% or more of the rentable square footage, or (iv) any building that is owned or operated by a hospital or hospital affiliate as defined in the Hospital Licensing Ordinance.

"Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ persons or enter into service contracts, but shall not include the City of St. Louis, the federal government or any other entity, or any individual or entity managing real property for a governmental entity.

"Successor employer" means a covered employer that (i) has been awarded a building service contract to provide, in whole or in part, building services that are substantially similar to those provided under a service contract that has recently been terminated, or (ii) has purchased or acquired control of property in which building service employees were employed.

SECTION THREE. Protection for building service employees.

(a) No less than 15 calendar days before terminating any building service contract, any covered employer shall request the terminated contractor to provide the successor employer and any collective bargaining representative of any of the affected employees a full and accurate list containing the name, address, date of hire, and employment occupation classification of

each building service employee employed on the notice date at the site or sites covered by the terminated contract.

(b) No less than 15 calendar days before transferring a controlling interest in any covered building in which building service employees are employed, any covered employer shall provide to the successor employer and any collective bargaining representative of any of the affected employees a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the transfer of controlling interest.

(c) Any covered employer shall provide to the successor employer and any collective bargaining representative of any of the affected employees a full and accurate list containing the name, address, date of hire, and employment occupation classification of each building service employee currently employed at the site or sites covered by the terminated building service contract no more than 7 calendar days after notice that its building service contract has been terminated.

(d) When providing the notice required under this Section, each covered employer shall ensure that a notice to building service employees is posted setting forth the rights provided under this Section and which includes a copy of the list provided under the preceding Sections, and that such notice is also provided to the employees' collective bargaining representative, if any. The notice and list shall be posted in the same location and manner that other statutorily required notices to employees are posted at the affected site or sites.

(e) A successor employer shall retain for a 90-day transition employment period at the affected site or sites those building service employees of the terminated building service contractor and its subcontractors, or other covered employer, employed at the site or sites covered by the terminated building service contract or owned or operated by the former covered employer.

(f) If at any time the successor employer determines that fewer building service employees are required to perform building services at the affected building than had been performing such services under the former employer, the successor employer shall retain the predecessor building service employees by seniority within job classification; provided that during such a 90-day transition period, the successor employer shall maintain a preferential hiring list of those building service employees not retained at the building who shall be given a right of first refusal to any jobs within their classification that becomes available during that period.

(g) Except as provided in subsection (f), during such 90-day period, the successor contractor shall not discharge without cause an employee retained pursuant to this Section.

(h) At the end of the 90-day transition period, the successor employer shall perform a written performance evaluation for each employee retained pursuant to this Section. If the employee's performance during such 90-day period is satisfactory, the successor contractor shall offer the employee continued employment under the terms and conditions established by the successor employer or as required by law.

(i) Nothing in this ordinance shall restrict an existing or successor employer from obtaining a background check on an employee as may be required by a federal, state or local governmental agency or from requiring that an employee undergo appropriate testing and investigation consistent with the existing or successor employer's personnel policies.

SECTION FOUR. Penalty

Any person found to be in violation of the provisions of this ordinance shall be subject to a fine of not more than Five Hundred Dollars (\$500) or a term of imprisonment of not more than Ninety days (90) or both a fine and imprisonment.

Approved: February 20, 2007