

Albany, NY

# Workers Rights Board

A project of the Capital District Labor-Religion Coalition/ Jobs with Justice/ Capital District WORKER Center  
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## Opening the Janitor's Closet: Unfair Practices in the Building Service industry

**Final Report and Recommendations of the WRB Panel after  
Consideration of Testimony at a Hearing on the Exploitation  
of Workers in the Building Service Industry on *Justice for  
Janitors' Day June 15<sup>th</sup>, 2004***



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## **Background**

### **National Justice for Janitors' Day**

On June 15th, 1990, janitors were savagely beaten by members of the Los Angeles Police Department for holding a peaceful demonstration to bring public attention to their on-going struggle for a decent living wage. In memory of what was by no means an isolated incident, the date the incident occurred was coined as National Justice for Janitors Day.

As there is dignity in all labor, there must be dignity and economic justice for all workers. In cities across the United States workers are organizing for change. This year we are happy to partner with SEIU and CSEA in bringing the concerns of the workers in the building service industry to the attention of the public on June 15<sup>th</sup>, 2004.

### **The Workers' Rights Board**

A Workers' Rights Board hearing is a public forum where workers can bring complaints against employers for violation of their human and legal rights in the workplace. The Board is drawn from a broad spectrum of community leaders and can intervene with employers and the public to help resolve situations that threaten workers' rights. Safe, living wage jobs where workers are not

discriminated against for speaking up for their rights, are the backbone of any healthy community. Workers' Rights Boards currently exist in dozens of cities across the country. The Boards are made up of community leaders, politicians, legislators and other public activists; and in addition to any political power those leaders may exercise in favor of the janitors, these hearings serve as a loud wake-up-call to the entire public through the media. Workers' Rights Board Hearings are one-tool that advocacy groups are using for workers to speak out about violations of their human and legal rights in the workplace. In this area Jobs with Justice (JWJ) founded in 1987, the Capital District Labor-Religion Coalition and the Capital District WORKER Center will promote this process.

The mission of the of the Workers' Rights Board is

- to investigate incidents of worker abuse reported,
- to establish community standards about fairness in the workplace that will serve as a moral benchmark to which employers can be held accountable,
- and to strengthen workers' democratic rights through community education.

The Capital District Workers' Rights Board is convened to bring to light and respond to injustices in the workplace. The Board also fights for community labor standards, which respect the dignity of all workers. In recent years workers' rights have been eroded. Workers are often intimidated or fired for speaking out or for union organizing. All too often the community does not know these stories. It is time for workers voices to be heard in our community.

To accomplish its goals, the Capital District Workers' Rights Board will attempt to resolve issues in a variety of ways including: investigating complaints,

meeting with workers and employers, holding public hearings or press conferences, and participating in community events to raise awareness about workers' rights, including the right to organize.

The Capital District Workers ' Rights board is a community-based project of the Capital District Labor Religion Coalition/ Jobs with Justice and the Capital District WORKER Center. The Capital District Labor Religion Coalition is a part of a statewide coalition that works to promote economic justice and human rights for working people and their families.

## **The Panel**

Rev. Joyce Hartwell, Artists All Faith Center

John J. McEneny, NYS Assemblyman 104<sup>th</sup> Assembly District

Robert G. Prentiss, NYS Assemblyman 109<sup>th</sup> Assembly District

Carmen Rau, Community Activist

David Soares, Attorney

Wanda F. Willingham, Albany County Legislator

## **The Witnesses**

Paul Williams, Janitor at New Visions

Kaseem Moultrie, Building Service Worker, SEIU Chairperson  
at the College of St. Rose

Testimony of an anonymous worker presented by Leslie Rivenburg, SEIU  
200United member

Fred Pfeiffer, SEIU Local 200United Representative

James McDermott, President, Beacon Cleaning, Inc.

Karen Carpenter, CSEA Organizer.

## Summary of Janitors' Testimony

### Paul Williams

*"I was hesitant to come out here today because other people have been fired for speaking out and trying to organize. But that's got to stop, and that's why I'm here."*

These were the chilling words spoken by Paul Williams, a newly organized Albany County ARC janitor, which summed up one of the major points of this year's Workers Rights Board Hearing. Besides the day-to-day problems of janitors in general; Mr. Williams's words epitomized the worsening plight of the millions of low-paid laborers whose legal vulnerabilities in attempting to unionize their workplace are aggressively exploited by American companies and institutions. Most workers cannot afford to risk losing their job, something that happens all too often if the employer discovers they are trying to unionize. These and other forms of intimidation are frequently used methods that many employers' use to dissolve unionization efforts. Moreover, even workers who are unionized are also afraid to whistle blow or speak their union voice because their employer could easily find a way to terminate them. Lax laws governing labor tip the scales greatly in the favor of big business. His employer, a government funded not-for-profit, employed all the tactics of union busting in order to deny their employees rights on the job.

## **Kaseem Moultrie**

Kaseem Moultrie, a janitor for the College of Saint Rose, took the podium and delivered a balanced combination of logical argument and compelling anecdotal evidence to express clearly the obvious importance of unionization to workers. 90% of America's workers are unable to join a union primarily because of fear of being fired for promoting the unionization of their coworkers. Kaseem worked as a non-union janitor for eight years in an environment where he and his non-union coworkers cleaned the germs of thousands using dangerous chemicals. They had no assistance from their employer to pay for a healthcare plan that they could not afford on their \$7 an hour wage. They also had no pension. Two years ago, Kaseem became a member of the Service Employees Union Local 200United. With the strength of collective bargaining, Kaseem now enjoys a better wage. His employer covers 90% of his healthcare insurance, and he has a pension.

Kaseem's former employer was the textbook example of "the greedy employer saving money for his or her pocket at the expense of the janitors and their families, using grimy tactics of intimidation to keep their workers from forming a union," explained Kaseem. "Too many non-union janitors are standing on the line awaiting government aid, despite the fact that they work a full time job. The victory shall come when we are all union members. I now have a better wage and a voice that I use to better the condition for myself and others and to assure that the workplace is safe for all."

### **Ms. Janitor X- read by Leslie Rivenburg**

Another worker had a lot to say to the Workers' Rights Hearing Board. Because of her fear of being terminated, however, she was compelled to submit her testimony anonymously to be read at the Hearing by a member of the Service Employees Union. Ms. X's union had won numerous grievances over the years and decreased her workload while bringing in a stream of raises. "I get this rate because of my years of service and the union contract. I know non-union janitors who get paid much less and receive no paid time off like holidays, vacation and sick leave, all of which I enjoy," she wrote.

Though Ms. X was a member of a union herself, she was still afraid to speak as her manager "would very possibly ban me from their buildings and force my employer to terminate my employment. It would be very hard for the union to prove that whistle blowing was the reason for the termination as they could cite security measures or defamation of the company as reasons to shut me out," read her testimony. "Also, if the subcontractor insisted on keeping me employed, that would put their contract in jeopardy." Though corporate greed is the obvious culprit, it is the wide legal wiggle-room that they use to silence Ms. X. It is high time the government changes this with stricter laws to protect all workers.

She described working conditions she had experienced, including over work and unsanitary practices such as rationing of cleaning supplies and sponges to save money. In less than five hours a day, she currently cleans and stocks ten bathrooms, 130 fixtures, mopping floors, emptying trash, as well as

cleaning lunchrooms including cleaning microwaves and fountains with the same sponge she used elsewhere. Ms. X ended her testimony by listing exactly what she wants the Workers' Rights Hearing Board members to do:

*"I would like to see the following changes in order to make this profession respected and regarded with dignity. We need better supervision that is humane and adequately trains us. To make the job sustainable, we need more time to accomplish our tasks and to do a quality job. Janitorial services and other contracted services should not be used for the sole purpose of enhancing a building owner's bottom line. We need to be budgeted into the industry so we can have a living wage and benefits without being shunned by society as second-class citizens. Finally, I believe that increased unionization of our industry will help further the limited gains we have made by showing through our unity that we will stand up to be counted as the productive members of society that we are and be so rewarded for our work."*

## **Summary of Testimony of Fred Pfeiffer, SEIU Union Representative**

Fred Pfeiffer testified concerning the state of the Building Service Industry from the perspective of the janitor's union. He noted that cutthroat competition among contractors results in low wage and benefit standards. Most area non-union janitors receive less than living wages, no health insurance or time off benefits. Recently SEIU settled the area wide collective bargaining agreement and succeeded in raising entry level wages significantly as well as protecting existing benefits through mobilizing union janitors and conducting standards picketing and organizing at non union buildings to dramatize the plight of area cleaners.

Area building service contractors covered by the SEIU Capital District Area Labor Agreement receive fully paid individual health benefits, time off benefits and at least an 8.00 per hour start rate. Janitors with several years seniority receive the area prevailing rate- 9.00-10.00 per hour. His testimony pointed out that only about 15 to 20% of area subcontractor janitors are organized and that an increase in union density in the industry would give the union the strength to raise standards. There are approximately 2000 subcontract janitors in the Capital District. Of these about 300 are union. He cited examples of employers who brazenly violated labor law in order to discourage union organizing. Workers are spread out in buildings throughout the area with increased security mandates, making access to workers and organizing difficult. Besides weak labor law, the law determining prevailing wages for workers of subcontractors doing business with the State (Article #9 of the NYS Labor Law)

needs to be strengthened as contractors skirt the law by not renewing contracts in a timely fashion or upgrading rates. Many contractors hire mostly part-time workers in order to avoid paying for health insurance coverage.

Several problems must be overcome:

- Increase low union density
- Organize in the community to develop higher area standards
- Reform weak labor laws
- Overcome the dispersed nature of the industry.
- Reform the Prevailing Wage Law

Contractors bid on cleaning contracts by cost per square foot. SEIU has determined that if an additional twenty-five cents of the square foot rental for buildings in the area were spent on the buildings cleaners, they could be able to have a ten dollar an hour wage, family health insurance and a pension. The union is determined to boost standards by continuing their Justice for Janitors program in the area. Area workers need to be rewarded for their labor.

Organizing the unorganized and helping area janitors increase their standards as well as assisting the workers to receive training on the job for career advancement will put the union in the position to effect this change. As the entire business community needs to be involved in this change, public officials need to support SEIU initiatives and area citizens need to become informed and support this program. The workers are enthusiastic about getting involved and will drive the program forward.

## **Summary of Testimony of James D. McDermott, President, Beacon Cleaning, Inc.**

James McDermott testified that a pro-worker management program that realizes the importance of its employees, can compete in the marketplace and properly reward employees for the work they do. He humanizes the work as much as possible, providing employees with time off on holidays and weekends. He advocates with building owners for decent conditions for his employees and works with his employees to maintain their level of work without threatening them. Many contractors have high turnover rates. His company rate has been less than 50% over the past five years, which is an excellent experience rate in the industry. He is able to pay living wages as he keeps his profit margin reasonable and overhead low.

His experience working for large companies revealed that they have large overhead in the form of administrative costs. Building owners take advantage of contractors by encouraging them to bid against each other and compete for extra services. Many contractors comply and add services for no cost, as they are afraid of losing the contract. Contractors first look to cutting cost on the backs of their janitorial employees.

Often times contractors will “pad” hours- i.e. push workers to get the work done more quickly but charge for the bid hours of work. He also cited examples where employers tried to get rid of long-time employees and replace them with new hires in order to cut wage costs as longer service employees made more money. As a small business owner, it is hard for him to provide health insurance,

as his taxes- including unemployment insurance (he has never had a claim against his company)- run to 21% above his current cost of labor.

By treating his employees in a fair and ethical manner, he is able to make a modest profit and satisfy his building managers who continue to retain his quality services. Despite a costly business environment, his business is able to provide quality services and jobs without resorting to cutthroat tactics by maintaining a low overhead. In so doing he proves that business can thrive with honest policies.

## **Summary of Testimony of Karen Carpenter- CSEA Organizer**

Karen Carpenter corroborated testimony of janitor Paul Williams concerning the unfair actions of the Albany Co. ARC/New Visions in discouraging organizing of their employees into the union. Workers were threatened and intimidated. Once the union was voted in, management did and continues to do everything in its power to stifle successful negotiation for a first contract. Labor laws are weak and make it difficult for workers to empower themselves by winning a voice on the job through a union contract. Competition in the industry makes securing a good first contract with improved standards difficult after winning union representation rights.

## **Recommendations:**

After witnessing this testimony we will take the following actions:

### **1. We will support efforts to unionize building service workers and will encourage the community to support organizing campaigns.**

We advocate for reform to existing Labor Laws so that workers have the right to organize and to fairly negotiate for a fair first contract. We will advocate for a fair law that will provide for card check recognition on a site by site basis. We pledge to publicly support workers rights to organize including protecting immigrant worker rights and union access to workers by union representatives.

### **2. Reform Article #9 of the Prevailing Wage Law.**

We pledge to form a committee to examine the Law and draft legislation to push to enact the reform of Article #9 of the Prevailing Wage Law including the following areas..

- Increase rates and benefits as the area union rate increases, not just when the contract is rebid.
- Do not allow agencies to extend contracts beyond the contract years in effect for the bid.
- Mandate that contractors provide regular reports to the state agencies they contract for- verifying hours worked and rates of pay and benefit levels in conformance with the prevailing rate.
- Enforce the law vigorously and make sure employees know what they are entitled to in terms of the prevailing rate- i.e. Post Rate at each work site.

### **3. Develop a code of conduct for employers.**

This code would include protection for freedom of speech on the job and whistle blowing. Assist Employers who respect and provide adequately for their

employees with business and tax incentives. Help small Employers get access to affordable healthcare programs.

**4. Oppose privatization of building services work currently being done by public employees.**

**5. Seek an owner's pledge of ethical business practices.**

Form delegations to approach building owners and managers and request that they sign a pledge to promote ethical business practices when retaining subcontractors. Lobby them to invest more money in the cleaning of their buildings. One way of doing so would be to employ firms that are under a collective bargaining agreement.

**5. Support community initiatives that help low wage workers obtain equity.**

I.e. build community programs enabling low wage workers to be able to get credit and afford low cost housing.

**6. We pledge to go to local press and media and utilize them to get our message out.**

Rev. Joyce Hartwell, Artists All Faith Center

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