

## MEMORANDUM

To: Princeton Mayor and Council

From: Heather Howard, Council Liaison to Human Services Commission  
John Heilner, Chair, HSC Subcommittee on Immigration Issues

Date: June 10, 2014

Re: Wage Theft Amendments to Landscaping Ordinance

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This memo is intended to brief you on our proposal to incorporate wage theft prevention and enforcement into the landscaping ordinance that is before Council.

### Background

As you know, HSC's Immigration Issues Subcommittee has been working for the last year and a half to protect the rights and safety of our immigrant community. One key initiative has been a focus on wage theft, which is when employers deny workers' wages through a variety of methods, including not paying overtime at time and a half, paying less than the agreed amount, not paying for all hours worked, or paying less than the minimum wage, misclassifying them as independent contractors, or simply not paying at all.

Although wage theft is prohibited by state<sup>1</sup> and federal<sup>2</sup> law, based on conversations with Princeton residents, federal surveys and other research<sup>3</sup> we believe that it unfortunately occurs all too frequently in our community, especially for day laborers who work in landscaping, restaurants and other low wage industries. Moreover, wage theft is underreported, as workers often do not report it for fear of losing their jobs, or out of concern for their immigration status. It should be noted that all federal and state wage theft laws are applicable regardless of a worker's immigration status.

Thus far, our efforts to address wage theft have focused on:

- **Enhanced enforcement:** Recognizing that the mere existence of a state law prohibiting wage theft is not sufficient without robust enforcement, we have focused on enhancing Princeton's ability to identify potential violations, assist victims and pursue remedies [*support prosecution of cases*]. The Human Services Department, Princeton Police Department (PPD), and Latin American Legal Defense Fund (LALDEF) have collaborated to streamline the process for workers reporting wage theft, including a new intake form and process that will allow workers to seek help at any of these agencies, in English or Spanish. In addition, as part of a broader training on immigration issues, the PPD invited representatives from the NJ Department of Labor and Workforce Development's Wage and Hour Division and New Labor, a group in New Brunswick

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<sup>1</sup> The New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a. *et seq.*, the New Jersey State Wage Payment Law, N.J.S.A. 34:11-4.1 *et seq.* or N.J.S.A. 2C:40A-2. Note also that there is [legislation pending](#) in the NJ legislature to strengthen penalties for wage theft, but prospects for enactment at this time are uncertain.

<sup>2</sup> The Federal Fair Labor Standards Act of 1938, 29 U.S.C.A. § 201 *et seq.* See also <http://www.dol.gov/whd/flsa/>.

<sup>3</sup> See, e.g., "All Work and No Pay: Day Laborers, Wage Theft, and Workplace Justice in New Jersey," Seton Hall School of Law Immigrant Rights/International Human Rights Clinic (July 2011), "Issue Brief: Wage Theft in New Brunswick," Unity Square and New Labor (July 30, 2013), and "Summary of Research on Wage and Hour Violations in the United States," National Employment Law Project (January 2012).

focused on immigrant workers, to train the entire force on the applicable laws and the appropriate handling of complaints.

- Expanded education and prevention: We also recognize that workers themselves may not be aware of their rights – or comfortable asserting them – and thus will be developing training for day laborers and low wage workers on wage theft prevention and on-the-job safety, and the municipality’s commitment to addressing complaints. This complements the PPD’s overall enhanced community outreach effort. We are also exploring ways to educate the employer community in Princeton.

### **Ordinance Amendments**

The landscaping ordinance before Council presents an opportunity to both educate landscapers (hopefully preventing wage theft) and also to provide a new remedy for violations of wage theft laws. The amendments are as follows:

- Requirement that applicants for registration be notified of our wage theft policies (in addition to Princeton’s leaf, brush and log collection program);
- Requirement that applicants for registration also be notified of NJ’s workers’ compensation insurance laws, to protect workers’ health and safety and home/business owners and landscapers from lawsuits that could be avoided with proper insurance, and
- Inclusion of violation of wage theft laws as a cause for suspension or revocation of a registration.

Late last year, New Brunswick enacted a wage theft ordinance that denies a business license to any applicant found guilty of a wage theft violation. If Princeton adopts these amendments, as we recommend, we believe we would be the second municipality in New Jersey to address wage theft through local ordinance.

We want to thank Bob Hough and Elisa Neira for their cooperation in crafting this approach. We look forward to future opportunities to incorporate wage theft prevention and enforcement into relevant ordinances, and have already begun discussions with Health Officer Jeff Grosser about possible approaches in restaurant inspections.

Cc: R. Bruschi, Administrator  
K. Monzo, Assistant Administrator  
R. Hough, Director of Infrastructure and Operations  
E. Neira, Human Services Director  
J. Grosser, Health Officer  
L. McDermott, Municipal Clerk  
Lisa Maddox, Municipal Attorney  
Human Services Commission