



Public Safety Committee July 23, 2013

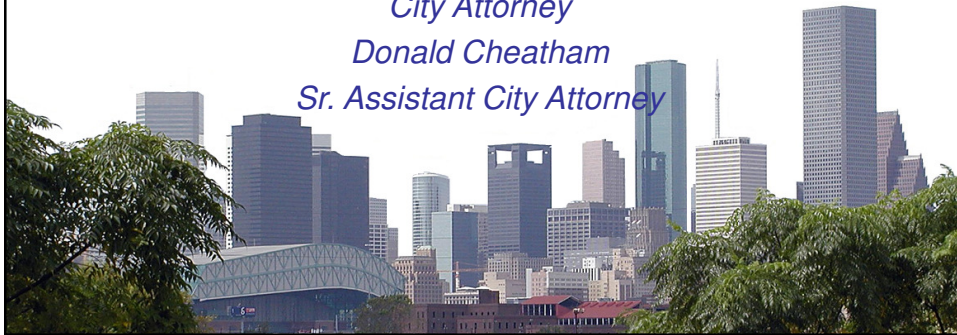
Proposed Wage Theft Ordinance

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Background

- Wage theft, including the non-payment or underpayment of earned wages owed by employers, is a practice typically inflicted on the weakest and poorest segments of our society, locally, statewide and nationally.
- Victims of wage theft currently have three avenues of redress available.
 - An administrative process initiated by a complaint filed with the Texas Workforce Commission under the Pay day Act
 - The filing of a criminal complaint with HPD or the Harris County D.A. for theft of services
 - Filing of suit in J.P. or Small Claims Court

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Background

- Persons subjected to wage theft are generally unaware of or unable to access their remedies available to them under State law.
- Give the state processes available, creation of a wage theft database and watch list to identify employers who have or may be engaging in such a practice, and the establishment of sanctions against such employers, along with counseling of victims, offers the best hope for the city in helping to combat wage theft.

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Wage Theft Coordinator

This employee will:

- Determine whether an employer has met any of the conditions for inclusion in the wage theft database.
- Provide counseling and assistance to persons alleging wage theft.
- Maintain a watch list containing information on any city contractor, subcontractor or other employer against whom a wage theft complaint is made.
- Seek to resolve complaints involving city contracts.
- Continuously update the watch list and provide such information to the mayor's office and department directors.
- Monitor council agendas to determine whether any employer named in the data base or watch list is seeking any city contract, and follow-up regarding same.

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Wage Theft Database

- A publicly accessible database of all employers, including both prime and sub-contractors, located or operating in greater Houston area, that have been:
 - (1) Convicted of an offense under Section 61.019, Texas Labor Code or Section 31.04, Texas Penal Code;
 - (2) Assessed an administrative penalty under Section 61.053, Texas Labor Code; or
 - (3) Adjudicated by a court of competent jurisdiction as having engaged in wage theft in litigation initiated by an employee against an employer.

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Wage Theft Complaints (involving city contracts)

- Any person subjected to wage theft by an employer in connection with a city contract may file a written complaint with the wage theft coordinator.
- Upon receipt of a wage theft complaint, the wage theft coordinator shall add the contractor to the watch list and seek to resolve the complaint.
- If a wage theft complaint is deemed meritorious and the wage theft coordinator is not successful in resolving the complaint, the city attorney, the affected director and the mayor's office shall assist the coordinator to resolve the matter. If not resolved, the employer shall be subject to sanctions.

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Wage Theft Complaints (*involving city contracts*)

- If the wage theft coordinator finds no merit to the complaint, the employer and the complainant shall be notified and the employer shall be removed from the watch list.



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Wage Theft Complaints (*no city contract involved*)

- Any person subjected to wage theft by an employer not involving a city contract may file a notice of wage theft with the wage theft coordinator.
- Upon receipt of a notice of wage theft complaint, the wage theft coordinator shall add the employer to the watch list and assist and advise the complainant concerning available remedies.



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Wage Theft Complaints

(no city contract involved)

- An employer named in a notice of wage theft complaint shall be removed from the watch list if:
 - (1) the complainant fails to file a wage theft claim with the Texas Workforce Commission within 45 days of the filing of complaint; or
 - (2) a complaint is filed but later dismissed by such agency.

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Sanctions

- An employer on the wage theft *database* shall not be eligible for a city contract.
- Any director proposing a contract with an employer included on the *watch list* shall determine the basis for the employer's inclusion on such list prior to submission of the contract for council action.
- Any employer who engages in wage theft under a City contract will be subject to action on the contract.
- If an employer listed on the wage theft *database is a current city* contractor, subcontractor, or materials supplier, that employer's contract will be subject to termination or debarment.
- An employer listed on the wage theft database shall not be permitted to receive or renew any license or permit. ¹⁰