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THE REAL DEAL
 NEW YORK REAL ESTATE NEWS


NEW YORK CITY REAL ESTATE NEWS

March 2016 Issue

Are unions losing their grip in NYC??

NYC's union vs. non-union construction battle intensifies as financial and political 'perfect storm' takes hold

By Kathryn Brenzel | March 01, 2016 10:00AM



(Illustration by Noah Patrick Pfarr)

In the 1970s, union members had a monopoly on New York City's skyline. At the time, card-carrying union workers made up a stunning 90 percent of the city's construction workforce. Not surprisingly, that number is down significantly today. The latest stats peg the non-union market share at 40 percent — and some say it may be as high as 50 percent.

Union contractors' hold on the industry has been slipping for several years, but their role in NYC development has never been in as much jeopardy as is it now.

This is, indeed, a crucial time for the city's construction industry: Costs are on the rise, skilled workers are in short supply and one of developers' most beloved tax benefits, the 421a program, [is dead](#) — at least temporarily. And the fight over 421a is a key indication of how developers are digging their heels in on what they're willing to pay for labor.

In blunt terms, it's seemingly a perfect storm for a non-union takeover.

As the city continues to see a building boom, sources say non-union contractors have gained an important stronghold, especially in 20-to-25-story residential projects. A majority of residential construction in NYC is open shop — meaning it's not exclusively union — and experts say the trend won't stop there if union outfits can't keep up with the financial perks offered to developers by their non-union rivals.

A big source of the non-union edge is, of course, cost: Non-union construction is 20 to 25 percent cheaper than union labor, said Louis Colletti, CEO of the Building Trades Employers' Association, which represents union contractors citywide.

"Our ability to get the business model of building with 100 percent building trade members has been shattered, and it

isn't going to go back," Colletti said. "Unless the business model can affect those cost reductions across the board to get that differential to 10 to 12 percent, then I think the open-shop model is here to stay."

Over the last few years as construction costs have shot up, some high-profile developers have turned to non-union labor for the first time.

Jordan Barowitz, vice president of communications for the Durst Organization, said his firm only uses open-shop workers for its rental housing projects.

Though even that is a big shift. The company has traditionally used union outfits for major projects. That changed with Halletts Point, which broke ground this year. The project is slated to have seven residential buildings along Astoria's waterfront, but because of the expiration of 421a, [the developer is just constructing one of the buildings](#) — for now.



Rendering of Halletts Point in Astoria (credit: Studio V Architecture)

"Historically, the Durst Organization has used union labor. Unfortunately, it has become cost prohibitive for the construction of rental housing," Barowitz said in a statement.

JDS's [Michael Stern](#) has been something of a poster child for the shift to open shop, with his [111 West 57th Street held up](#) as a kind of litmus test for the trend. If a 1,418-foot tower can be built with a mostly non-union workforce — an unthinkable prospect 10 years ago — what's to stop more developers of supertalls from going open shop?

Gary LaBarbera, who represents 100,000 union workers as president of the Building and Construction Trades Council of Greater New York, told TRD that while non-union labor certainly has a presence here, New York City is still a predominantly union town.

"I wouldn't be surprised if in five years, the city is an open-shop city."

LANCE FRANKLIN, TRITON CONSTRUCTION

He said non-union encroachment is relegated to the city's new residential construction. But he pointed out that 75 percent of new construction is non-residential — commercial, institutional and government-related — and completed by union contractors.

"There's been a lot of discussion around non-union contractors, and quite candidly, there are a lot of irresponsible developers who are pushing that model," said LaBarbera, who has taken a more combative stance than Colletti has on the issue. "The idea that the trend, overall, in the city of New York, is going non-union is factually incorrect."

Still, like developers, construction companies are also rejiggering their approach to bringing non-union workers into the fray.

Lance Franklin, CEO of Triton Construction, which has worked with a host of developers including HFZ Capital Group and Bluerock Real Estate, said that his company started its first open-shop project in 2005. Now, a majority of the company's work is open shop — including SR Capital's luxury condos at 551 West 21st and Ian Schrager's planned hotel and condo development on Chrystie Street.

"I think the trend is not only continuing, but it's getting stronger," Franklin said. "I wouldn't be surprised if in five years, the city is an open-shop city."

Industry setbacks

During the housing crisis of 2008, projects nationwide stalled and the pipeline of new work fell to a trickle. The downturn led to some of the most experienced workers permanently dropping out of the workforce, said Manhattan-based construction attorney Barry LePatner.

With financing scarce, the developers who were actually building increasingly began turning to non-union contractors to save on costs, LePatner said. Union employees who were laid off soon began taking jobs at non-union construction companies in order to make ends meet.



Michael Stern (Photo: Studio Scrivo)



A rendering of 111 West 57th Street (Credit: Hayes Davidson)

When the economy improved, these workers returned to their union jobs, but the non-union construction companies gained crucial experience that has allowed them to take on bigger projects, LePatner said.

"It's a question of adaptation. If unions can keep their hold on larger, more complicated buildings, they are going to have one major area where they are preferred by more major developers," he said. "There's going to be a market force if the non-union groups get more experience to be the preferred workers for the major buildings."

Traditionally, the appeal of union labor has boiled down to standardization: Developers believe they are signing on for efficient and quality work when they go union, arguing that organized labor brings training, experience and safety to a project. One challenge for non-union groups is that they sometimes require more supervision because training is less formal and organized, said Robert Barone, senior managing director of CBRE's valuation and advisory services construction management group.

"In most every case, more times than not, there's more oversight that is needed to get the quality you're looking for," he said. "There's a tradeoff. When you go non-union, you're working harder on management, harder on diligence, and you'll probably have to fund it more fluidly to keep the project moving."

Safety is often cited as a deterrent from opting for non-union labor, as well.

LaBarbera, for one, argues that it's no coincidence that 15 of the 16 construction fatalities in the past year were at non-union work sites.

But safety lapses can happen anywhere, as proven by [last month's crane accident](#), in which a 38-year-old pedestrian was killed. The crane operator, a member of the International Union of Engineers Local 14, was following procedure and trying to secure a mobile crane due to high winds when the boom came crashing down on a Tribeca street.

In December, [city officials announced legislation](#) that would require all construction work involving buildings 10 stories or taller to be completed by workers who have gone through mandatory apprenticeship programs, which are run by unions. The proposed measure was billed as a way to increase safety at work sites, but developers criticized it as a union-friendly maneuver to assure more construction projects were union-led.

Brian Sampson, president of the New York State chapter of the Associated Builders and Contractors, an open-shop advocacy group, said claims about open-shop construction being unsafe are "asinine."

"Their objective is to vilify honest, hard-working, safe contractors and try to convince elected officials and others that we are not safe because they know that they have out-priced themselves," said Sampson, who prefers the term "merit shop." "They simply want to politicize safety for their own financial windfall."

The 421a factor

The battle between union and non-union construction came to a head in January in the heated debate over the future of 421a. In fact, the dispute is largely responsible for the lapse in the program, which offers developers tax abatements in exchange for building affordable housing.

In July, officials passed state legislation that required labor leaders and developers to reach an agreement by January 2016 on the wages developers would pay construction workers on projects that benefit from the program. The tax abatement program expired when the parties failed to strike a deal.

An agreement hinged on whether 421a projects with 15 or more units should be required to pay at these higher rates. It was a crucial moment for union members to possibly regain lost market share of residential projects.

From the birth of a union group to the demise of 421a

Key moments in the history of NYC construction workers

1898: BCTC is formed

The Building and Construction Trades Council of Greater New York was founded the same year that the city consolidated into five boroughs. The group, considered one of the most powerful trade associations in the city, now represents 100,000 members of affiliate building and construction unions.



1931: Prevailing wage law passes

Known as the Davis-Bacon Act, this federal law requires workers on publicly funded construction projects to be paid at local prevailing wages. The regulation would prove enormously beneficial to New York City construction workers in the next two decades, as the city initiated a series of major public works projects, including La Guardia Airport, the Lincoln Tunnel and the West Side Highway.



1932: Workers win right to strike

Congressman and future mayor of New York City Fiorello La Guardia (inset) co-sponsored the Norris-La Guardia Act, which protects the rights of workers to strike. The law is considered one of the first pieces of federal legislation aimed at protecting organized labor, and it banned so-called "yellow-dog contracts," which force employees to promise not to join a union as a condition of employment.

1959: Federal rules for unions

The Landrum-Griffin Act, previously known as the Labor-Management Reporting and Disclosure Act, established federal checks on union corruption and certain reporting rules for unions. The law also legalized pre-hire contracts, which allow the employer and employee to reach an agreement over wages and working conditions prior to hiring, as well as seven-day union shop contracts, which require employees to join a union within seven days of starting the job.

1970: Occupational Safety and Health Act passed

This landmark law was passed in 1970, making employers responsible for the safety of their workplaces. The federal Department of Labor has said that an estimated 14,000 construction workers were killed nationwide every year prior to the law. It dropped drastically after the act's passage. Still, safety continues to be a paramount concern on construction sites — the city saw 16 fatalities in 2015.

1988: Cuomo launches corruption task force

Gov. Mario Cuomo created the Construction Industry Task force in 1988 to root out graft in the construction industry. The new unit was formed after a series of major corruption cases in the city, including the indictment of 20 construction workers in a bid-rigging and bribery scandal in Queens in 1987.



(Click to enlarge for full timeline)

Mayor Bill de Blasio opposed the requirement, arguing that it would stymie the city's efforts to construct 80,000 new affordable housing units over the next decade.

The New York City Independent Budget Office, a nonpartisan watchdog, released a report last month that estimated that prevailing wages would increase total construction costs by 23 percent and increase per-unit cost by \$80,000. That, the report noted, means that an additional \$4.2 billion in financing would be necessary to meet the mayor's 10-year affordable housing plan. The report, however, did not take into account how features of prevailing wages, like job site rules, government monitoring and project schedules might control construction costs and offset higher wages.

Blended workforce

To cut down on costs without dipping into workers' pockets, experts have said unions should create a "blended-rate" workforce — one that has more manpower with a lower budget. This would mean adding more union workers who are at a lower pay grade than highly skilled journeymen.

A 2011 report by the Regional Plan Association, the urban research and advocacy group, suggested that unions need to make a series of concessions in order to remain viable players in New York City.

It estimated that non-union workers make up 40 percent of the construction market and suggested eliminating certain fringe benefits, featherbedding — the practice of hiring more workers than needed for a particular job — and time-consuming work rules to shift the scale back to union favor. When asked by TRD, representatives for the association last month declined to comment on the report, saying an updated version will be released sometime next year.

Jay Badame, president and chief operating officer of Tishman Construction Corporation, an exclusively union company that served as construction manager at One World Trade Center, said that on a “good day,” the price difference between using non-union labor and union is 10 to 15 percent — in favor of non-union — and on a “bad day,” that gap jumps to 20 to 30 percent.

Tishman has the benefit of being a well-established company with deep pockets and attractive insurance rates — qualities it hopes will hold up against their cheaper non-union counterparts.

“We will never be in a position where, on a trade-by-trade basis, we can compete with non-union companies,” Badame said at the Urban Land Institute New York’s annual Real Estate Outlook event in January. “So, I have to do some things below the line to make it more attractive for that developer to say, ‘I’m going to go with Tishman, I understand that they are going to be here for the next 50 years as opposed to the next five.’”

Jeffrey Dvoretz, executive vice president and head of development at Kuafu Properties, said during the same event that safety and availability are a big consideration as his company deliberates whether to employ union or non-union labor. He said it’s still an active discussion.

“We look at it and we say, ‘Yes, there’s the price of what it looks like on paper to save the money, but at the same time, we’re a sophisticated development company,’” he said. “We care a lot about our reputation. We care about the quality of what we produce. We care about safety a lot. We also care about the schedule, so these are things that we have to weigh carefully to make decisions.”

Correction: An earlier version of this story misstated the status of legislation pertaining to mandatory apprenticeship programs. The legislation was announced and has not been formally introduced in the city.



BRIEF

WSJ: NYC construction unions 'losing their grip' on private market

By Kim Slowey • April 18, 2016

Dive Brief:

- Major New York City construction companies like Tishman Construction and Turner Construction have passed on renewing certain collective bargaining union labor agreements for private work, indicating they're planning to use less expensive nonunion workers on future projects and that unions in the city are "losing their grip" on the market, The Wall Street Journal reported.
- A New York City Independent Budget Office report earlier this year found that that paying union scale on Mayor Bill de Blasio's planned affordable housing projects increased costs by 23%, while developers for other private city projects have said using union labor raises costs by 20% to 30%.
- Even though the number of union-exclusive private projects is dwindling in favor of open-shop models, union officials said their presence is still strong in the public sector — a \$13 billion market in New York City last year.

Dive Insight:

Other union strongholds like Chicago are also seeing a loss of union market share in private work, according to The Journal. Unions saw their pinnacle in the 1950s when 50% of all construction workers were union members, and the labor groups enjoyed a 35% market share in the private sector. Construction unions are starting to feel the pinch. For example, in a period of startling growth in the city, New York City and Vicinity District Council of Carpenters clocked only 21 million hours in fiscal year ending June 2015, a 13% decline from the city's previous 2008 boom total of 24 million hours.

Part of the unions' justification for higher wages is that their workers provide a higher quality and safer product than their nonunion counterparts. However, a new industry group, the New York Construction Alliance, which is made up seven open-shop construction firms with more than \$1.5 billion in revenue last year, is out to dispel that notion.

In addition to the higher rate of pay, some construction company executives and developers say the union way of working hasn't kept up with the competition, particularly when it comes to which workers are allowed to perform certain aspects of the work.

In a recent New York City union dust-up, the Building and Construction Trades Council and the Real Estate Board of New York failed to firm up a wage agreement for potential workers on de Blasio's 80,000-unit affordable housing plan, which resulted in the expiration of the 421a tax credit. The 421a credit, which offered a tax break to multi-unit residential developers who included affordable units in their projects, was expected to generate approximately \$1.5 billion in tax breaks.

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Construction Unions' Grip on New York Begins to Show Cracks [↗](#)

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CRAIN'S

NEW YORK BUSINESS

Union wages would raise affordable-housing costs by 13%, officials find

Higher pay for construction workers would tack \$2.8 billion onto mayor's 10-year housing plan

[Rosa Goldensohn](#)

Published: January 11, 2016 - 9:34 am

Would a 13% increase in costs kill the mayor's affordable-housing plan?

According to the city's [Independent Budget Office](#), that would be the price tag on a prevailing-wage requirement for city affordable housing—an extra \$2.8 billion over the course of the administration's 10-year plan, a [new report](#) from the IBO found.

The prevailing-wage pay standard, generally that in collective-bargaining agreements, raises the cost of city affordable-housing projects by 13%, the IBO said. The budget watchdog compared costs at projects that pay prevailing wages with those that do not.

Mayor Bill de Blasio, whose signature policy initiative is to build or preserve 200,000 affordable-housing units over 10 years, [has said such a requirement is untenable citywide](#). Last spring, according to the *Daily News*, the mayor said he had told organized labor "that this is a pretty sacred mission from my point of view, to really produce affordable housing on a grand scale. I think there is a way to do it that accommodates union labor but not at prevailing wage."

"We will continue to push for prevailing wages in affordable housing projects wherever it's feasible," mayoral spokesman Wiley Norvell said in a statement Monday.

De Blasio's deputy mayor in charge of housing, Alicia Glen, [has argued that prevailing wages](#) would cut the number of affordable units produced by almost a third.

If the administration achieves its aim of creating 69,000 affordable units by 2024, a prevailing-wage requirement would add roughly \$2.8 billion in financing costs, the IBO said. The extra cost amounts to about \$45,000 per unit, it calculated.

The matter is important because unions and real estate interests [have until Jan. 15](#) to agree on construction wages for future rental apartments that receive the controversial 421-a tax break, which must include affordable housing and would account for a significant number of units in de Blasio's housing plan. Without a deal, the tax break would cease. Unions want the tax break to entail paying prevailing wages, while real estate developers are opposed.

Last April, Councilwoman Elizabeth Crowley, D-Queens, proposed a prevailing-wage requirement for any project that receives city funding.

Prevailing wages for construction workers are industry-standard salaries and benefits set by the state and the city comptroller, and are usually based on amounts in union contracts. They vary by trade, but tend to be higher than median wages, according to the IBO. Projects using federal funding are required to pay state prevailing wages.

Affordable-housing organizations have been steadfastly opposed to a prevailing-wage standard. An agreement between construction unions (led by Gary LaBarbera) and the Real Estate Board of New York could settle for a pay scale somewhat below that of prevailing wage, limited to projects above a certain size or within a particular area of the city. The expiring 421-a tax break has no such wage standard, but Gov. Andrew Cuomo surprised insiders by insisting that it be part of the legislation extending the program.

[Assessing the Costs the Impact of Prevailing Wage Requirements on Affordable Housing Construction in New York](#)

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CRAIN'S

NEW YORK BUSINESS

Union labor for housing even more expensive than originally estimated

IBO rechecks its data and says the added burden is a whopping 23%

[Greg David](#)



Buck Ennis

Union labor is even more expensive than originally estimated, a new report found.

Published: February 9, 2016 - 11:24 am

Using union labor to build affordable housing under the mayor's ambitious program will be almost twice as costly as previously estimated.

The bottom line: 23% more, or \$4.2 billion, which works out to \$80,000 per unit.

In January, the almost-always reliable Independent Budget Office [issued a report](#) putting the impact of requiring prevailing wage, one tool to mandate union workers, at 13%. It turns out that 12 of the projects that IBO analyzed were labeled as nonunion when they had paid prevailing wage. The erroneous data had been provided by the city's Department of Housing Preservation and Development.

When experts complained to the IBO, the organization rechecked the data and found the error. I got a few similar comments when I used the IBO report in my [Monday column](#) for the print edition.

In fact, the IBO now believes the "hard" cost of using union workers is 28% higher, but that builders respond by shaving other development costs to lower the overall number to 23%.

In the end, the new data merely make the conclusion of my Monday column more compelling.

Builders and the mayor want a 421-a tax break lucrative enough that it would allow the city to mandate affordable rents for up to a third of all units—an arrangement that would still require billions of dollars in city subsidies.

And the unions and the governor think they can ask for more?

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FASTER THAN THE RATE OF CHANGE ON THE
INSIDE, THE END IS NEAR.”**

**Jack Welch
Former GE President & CEO**



Organized Labor Doesn't Have the Grip They Once Did Thanks to 'Open Shop'

BY LIAM LA GUERRE JUNE 14, 2017 9:45 AM

UNION WORKERS PROTESTING. PHOTO: MICHAEL NIGRO/PACIFIC PRESS/LIGHTROCKET VIA GETTY IMAGES

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"New York is becoming an open-shop town."

SEE ALSO: [Video: Tomorrow's Workforce Doesn't Want Yesterday's Buildings](#)

That's what Jay Badame, the president and chief operating officer of AECOM Tishman, said at a panel discussion late last month at the Union League Club in Midtown South hosted by the law firm Zetlin & De Chiara.

It was a blunt assessment from the head of the city's largest construction management company.



There was a time, Badame said, when he vetted bids for steel and concrete work and excavation from union and nonunion subcontractors at the request of a landlord, and after checking the bids, Tishman went with union subcontractors. The cost, the expertise and the proximity made a union job the logical choice.

That's no longer the case. At least not on every project.

"The developers are really driving the shift," Badame continued. "We're just at their beck and call as it relates to open shop and union. At Tishman we're very happy—it's music to our ears—if work is 100 percent union, but in the cases where an owner says, 'I want you to be open shop,' we have no choice but to comply with that."

Many would argue that New York City is already an open-shop town, in which both union and nonunion subcontractors bid for jobs, dangling expertise and cost in front of construction companies. As a result, plenty of projects end up having a mix of union and nonunion workers for different aspects of a job. There are a number of large developments that tell the story.

The consortium of L+M Development Partners, BFC Partners and Taconic Investment Partners is using open shop to construct Essex Crossing, a 1.9-million-square-foot office, residential and retail project in nine buildings. L+M's subsidiary, L+M Builders Group, and T.G. Nickel are general contractors on the project.

Gilbane Building Company employed the open-shop concept for work on the first phase of Macklowe Properties' residential conversion of the 944,000-square-foot 1 Wall Street, which was completed in May and included interior demolition and preconstruction services. Douglas Steiner's 55-story rental skyscraper at 333 Schermerhorn Street in Boerum Hill, Brooklyn—called the Hub—is was completed

late last year via open shop construction by New Line Structures.



Thirty years ago, it would be unfathomable for big projects by huge construction companies to be subcontracted to nonunion firms. But, today, landlords and developers are pushing for an even greater expansion of the open-shop concept, and they've got their most powerful lobbying arm behind it.

“To the extent that private sector union construction is happening in New York City, it is primarily being done by [Real Estate Board of New York] members,” John Banks, the president of REBNY, said in a statement to Commercial Observer. “Nonunion construction has steadily increased in recent years, however, because union contractors and trade organizations have refused to take steps to become more competitive, while their nonunion counterparts have become much more skilled.”



333 SCHERMERHORN STREET. PHOTO: COSTAR GROUP.

The biggest reason labor's grip is slipping comes down to the fact that construction prices have become too high.

New York City has become the most expensive city in the world in which to build, according to the 2017 International Construction Market Survey by Turner & Townsend released in May. The Big Apple has notched \$354 per foot in construction costs, unseating Zurich, Switzerland. The report partly blames workers wages for the city's rise to first place.

“We never sit down and say, ‘Let's look at nonunion,’ ” Sabrina Kanner, the executive vice president of design and construction at Brookfield Property Partners, said as a panelist at the Zetlin & De Chiara event. “What I do is put our budget on the table and say, ‘This is the number that I have.’ We wouldn't be having this discussion today, if in fact construction costs hadn't gone up 25 percent in the last five years.”

(Brookfield meanwhile has labor agreements with unions for more than 25 million square feet of buildings in the city, Kanner noted.)

While open shop and nonunion are technically separate things—as open shop could result in a project being 100 percent union—the percentage of nonunion workers has risen dramatically in the past few decades along with the number of nonunion companies.

Private construction union members in New York state in 1983 amounted to 48.1 percent or 117,671 of 244,768 total workers, according to unionstats.com, which tracks union membership information. That membership count has dropped to 30.7 percent in 2016 or 122,255 of a total of 398,001 workers.

And lately open shop has become more popular with construction companies, as evidenced by the formation of the first open-shop construction organization in the city last year, the New York Construction Alliance (NYCA), founded by seven construction firms. Together the companies generated revenue of \$1.46 billion in 2016 with 813 employees. They worked on 75 projects of just over 16 million square feet last year.

Most experts CO spoke to agreed that open shop has been mostly applied to the residential side of construction. Nonunion workers have dominated construction work on small residential buildings in the outer boroughs for decades as those projects had smaller budgets and union jobs are more costly. And that same reasoning translated to bigger residential sites over time.

“There is a high concentration of open-shop exposure most certainly in the affordable housing sector,” said Kenneth Thomas, the executive director of the NYCA. “There the biggest factor would be the pricing...Most certainly in the housing sector the underwriting is more sensitive given the nature of housing and how narrow the profit margins can be.”

And while data is scarce, there is evidence of a vanishing union presence on projects of more than 100 units, according to a REBNY analysis of New York City Department of Buildings data.

In 2010, there were five residential projects of 100 or more units under construction in the city, and two of them were union; in 2011 there were 13 projects, seven of which were union.

But since then the numbers show a big drop off. In 2015, the most recent year for which numbers are available, there were 146 such projects with just 21, or 14.4 percent, union sites.

Gary LaBarbera, the president of the Building Trades Council of Greater New York, which represents more than 100,000 union workers, contends that small housing projects

across the outer boroughs have historically been done nonunion, and as a result unions aren't actually losing market share.

“[Open shop] is just in the residential marketplace. For decades there has always been a nonunion presence,” LaBarbera told CO. “I’m sure you get calls from REBNY and my friends over there, and I say that sarcastically, because they’re pushing that the unions are losing strength in the area.”

At the same time, LaBarbera pointed out that many open-shop projects have a strong union presence—in some cases “70 percent or 80 percent” union workers, making them essentially union sites.

“It’s undisputable that the massive majority of the tens of billions of dollars that are being performed on construction in general is being done by union construction,” LaBarbera said.

Indeed, outside of residential developments, commercial buildings and public works are almost entirely done by union workers.

According to the New York Building Congress, New York City saw about \$43 billion in construction spending in 2016. Approximately \$13.4 billion of that was for residential, and the rest was spent on government and commercial projects.

However, the presence of open shops in the commercial sector may be starting to bloom, as well.



55 HUDSON YARDS. PHOTO: GEOFF BUTLER

Related Companies, Oxford Property Group and Mitsui Fudosan hired Gilbane—a notable proponent of open shop, which it prefers to call “merit” shop—to construct 55 Hudson Yards, a planned 51-story, 761-square-foot office tower. The project has a mixture of union and nonunion workers on site, according to the construction company. (Related and Oxford have a project labor agreement for most of the work at the rail yards.)

Gilbane is also working on Rudin Management and Boston Properties’ Dock 72, a 675,000-square-foot office building in partnership with WeWork at the Brooklyn Navy Yard.

And Tishman Speyer hired New Line Structures, a member of NYCA, for its combined 1.2-million-square-foot ground-up office buildings, One and Three Gotham Center, in Long Island City, Queens, that is under construction.

“What [this] is showing you is it’s not just residential, it’s moving into commercial, and soon it will move into the institutional work,” said Billy Gilbane, a senior vice president at the company who runs operations in New York. “It’s best value, and we’re trying to be as inclusive as possible. We believe that for too long New York has operated as a closed market.”

While cracks are appearing in the commercial market generally, getting open shop into public works will be the greatest challenge, and it might explain why the unions have been sanguine about open shop’s sudden visibility.

Public-works jobs require workers be paid prevailing wages by state law. The unions set wages in its collective bargaining agreements with construction companies.

“New York has been, is and will continue to be a robust place for members of the building trades to build our city, region and state,” said Carlo Scissura, the president of the New York Building Congress. “The building trades continue to build New York in a great way.”

According to an Empire Center for Public Policy report in April, the average prevailing wage with benefits for a union construction worker on a nonresidential site is about \$75 an hour, an increase of nearly double from the \$40 an hour for a site with both union and nonunion labor.

Operating engineers in Gotham bring in an average of \$114.5 an hour (\$74.20 base salary and \$40.30 in benefits), and laborers average \$66 per hour (\$36.47 in base salary and \$30.13 in benefits), according to that report. Meanwhile, carpenters average \$96.76 an hour, and electricians bring home \$103.44 per hour.

Besides the prevailing wages, most super-large government projects have project labor agreements (PLA), which tend to require a certain percentage of union workers on job sites.

“I think when you look at public works, you look at the large, multibillion dollar projects that the government is building, government will always find a way to give that to the unions,” said Brian Sampson, the president of the Empire State Chapter of the Associated Builders and Contractors, a group that represents approximately 130,000 workers not affiliated with unions in New York City.

“You’ve got the MTA, LaGuardia, Penn Station, bridges, Javits Center, Second Avenue subway, basically any large public project [Gov. Andrew] Cuomo has stipulated they are

going to build will be built by PLA. But the governor is a big beneficiary of labor contributions and labor support.”



One point construction experts are making, however, is that taxpayers are paying premiums for these public projects since they aren't being done open shop. The Empire Center report calculated that the government ends up paying 25 percent more for public projects in New York City because of the high prevailing wages.



“I don't think there are any serious disagreements that prevailing wages lead to higher cost for taxpayers,” said E.J. McMahon, the research director of the Empire Center for Public Policy who co-wrote the report. “The main union argument is that ‘we're good.’ ”

McMahon is referring to the unions calling nonunion firms unsafe. To make their case, LaBarbera and others have pointed to the fact that 90 percent of the 35 worker fatalities in the past two years have been on nonunion sites.

McMahon's report argues that the union's pension benefits are so high—in many cases nearly 50 percent of workers' compensation—because the unions have to fight for very expensive pension funds for workers.

“The union model of employee leasing, you can understand it has a lot going for it from an employee standpoint,” McMahon said. “The problem is that they have priced themselves out of competition. And it's not just greed but that they have to back fill their unpaid liability of pension shortfalls.”



ESSEX CROSSING RENDERING. PHOTO: COSTAR GROUP.

The contest for open shop will be tested later this month when the labor, engineering and metallic lathers unions negotiate collective bargaining agreements with the Contractors' Association of Greater New York (CAGNY) and Building Contractors Association (BCA), two big construction groups. The deadline to sign a new contract is June 30.

The issues at hand are wages, naturally, but also work rules, which affect those costs. For example, laborers are the only workers that are allowed to clean up and prepare construction sites by removing debris and hazards. If a member of a different trade—say, an iron worker—tried to clean up a site, he will be ordered to stop even if it is quicker and

more efficient. Therefore, two people are needed for tasks—one to do ironwork and another to clean and remove items—making projects more costly.



CAGNY, BCA and the unions either declined to speak to CO or could not be reached for comment. However, right now talks haven't progressed toward a definite agreement, and there is a "50-50" chance a new contract won't be signed, according to a source with knowledge of the talks that spoke to CO on condition of anonymity.













If the two sides can't come to an agreement, the construction organizations, both of which are part of the Building Trades Employers' Association, would be free to use open shop on projects.

"This is a very crucial negotiation," said Richard Anderson, the president of advisory firm RTA Advisory Services and the former president of the New York Building Congress. "It's not just about wages: It's about what they agree to and will they even have a contract."

He added, "In some ways, [open shop] helps the unions as long as they are flexible and adaptable, because they have quality on their side and they have productivity on their side. What they don't have is flexibility. And what it's going to lead to is more and more open shop."

KEYWORDS: AECOM Tishman, Andrew Cuomo, BFC Partners, Boston Properties, Brian Sampson, Brookfield Property Partners, Building Contractors Association, Contractors' Association of Greater New York, Gary LaBarbera, Gilbane Building Company, Jay Badame, Kenneth Thomas, L+M Development Partners, Macklowe Properties, New Line Structures, New York Building Congress, New York Construction Alliance, Oxford Property Group, Real Estate Board of New York, Related Companies, Richard Anderson, Rudin Management Company, T.G. Nickel, Taconic Investment Partners, Tishman Speyer, Union League Club, Zetlin & De Chiara

Organizations in this story

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