

# Good Faith Bargaining Averts Detroit-Grade Contract Terms

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The Big Dig remains a gift that keeps on taking from Bay State taxpayers and Boston area motorists using Massachusetts Turnpike Authority routes. A project whose initial cost was pegged in the early 1980s at \$2.5 billion could carry an ultimate price north of \$20 billion, by Boston Globe calculations.

A union that enjoyed wage supports during the Big Dig's decade-plus construction, culminating eight years ago, has found how a private employer in a competitive market is bound by financial realities that can escape a government agency—especially one empowered to levy costly tolls on vital transportation routes in a major population center.

In negotiations with Aggregate Industries Northeast Region for a contract succeeding one whose terms reflected Big Dig-era business volume and higher concrete prices, Teamsters Local 42 sought wages, benefits and work guarantees as if the project had never ended. The union represents mixer and haul truck drivers at Aggregate Industries ready mixed and quarry sites in Saugus and Swampscott, Mass., respectively. It alleged unfair labor practices through National Labor Relations Board channels after the producer pushed back on demands to monopolize delivery assignments for Local 42 drivers in certain markets.

Adopting a June 2013 decision by NLRB Administrative Law Judge Steven Davis, the Board dismissed Local 42's complaint in mid-August—one of the first pending-case actions by four new Members and a Chairman beginning a five-year term. The dismissal order is a good start for a newly constituted Board (note page 13) appointed by the union-friendly Obama Administration, but duty bound to apply the National Labor Relations Act.

Judge Davis determined Aggregate Industries had not violated the Act during May–August 2011 bargaining sessions with Local 42, which came on the heels of recent contracts with two Teamsters locals representing drivers at sister Boston-area sites. The producer sought changes in provisions for Local 42 drivers' territorial jurisdiction; seniority and job bidding; work guarantees; plus health and welfare, pension and vacation benefits. Negotiations proceeded with Aggregate Industries offering an economic package equivalent to \$36.25/hour—\$7 below the prior contract—and the union seeking a \$44/hour package.

After failing to reach an agreement, the producer implemented final contract offer terms for Saugus and Swampscott drivers in early August 2011, with changes in wage rates, work and seniority rules, and territory guarantees. They triggered Local 42's complaint that Aggregate Industries had not bargained to a good-faith impasse, hence an unfair labor practice.

A human resources manager testified that changes Aggregate Industries sought in the post-April 2011 contract reflected dramatic declines in concrete business following the Big Dig's 2005 completion. Decreasing sales saw the price of concrete drop, competition increase and "loss of millions of dollars in earnings per year." The producer attributed losses to onerous contracts with various unions, Local 42's agreement having "the most expensive cost structure." The manager also conceded that through 2007, Aggregate Industries Northeast Region was bidding work at a loss, changing course in 2008-2010 to pursue only jobs where it could profit—typically ones performed without Local 42 members.

Leading into negotiating sessions, union officials who figured they could hold firm on demands and perhaps prevail with

the Labor Board apparently neglected to consider post-Big Dig era conditions for Aggregate Industries and the Massachusetts commonwealth. In a sobering observation for the Boston Globe, a state transportation official concluded in 2008 that the project “saddled us with costs we can’t afford.”

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