

**IN THE WEST VIRGINIA SUPREME COURT OF APPEALS**

State of West Virginia, *ex rel.* West Virginia Citizen  
Action Group, an incorporated association of State  
citizens and taxpayers,

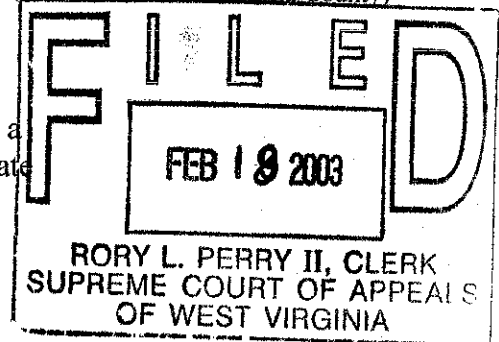
Petitioner,

v.

Case No. 02-MISC-352  
(Circuit Court of Kanawha County)

West Virginia Economic Development Grant Committee;  
City of Wheeling (including its Urban Renewal Authority), a  
municipal corporation; and WVOC Associates, L.P., a private  
partnership and corporation,

Respondents.



**MOTION FOR LEAVE OF THE COURT TO FILE A BRIEF AS  
AN AMICUS CURIAE**

**TO: THE HONORABLE JUSTICES OF THE WEST VIRGINIA  
SUPREME COURT OF APPEALS**

NOW COMES the Affiliated Construction Trades Foundation, a division of the West Virginia State Building and Construction Trades Council, AFL-CIO ("ACT"), by its counsel, Vincent Trivelli and Stuart Calwell, Law Offices of Stuart Calwell, PLLC, pursuant to Rule 19 of the West Virginia Rules of Appellate Procedure, requests leave of this Court to file an *amicus curiae* brief in this matter, and in support thereof, states the following:

1. ACT is a labor organization that represents thousands of construction workers who are citizens of West Virginia.
2. In order to protect its members and the public, ACT monitors compliance with statutory requirements including competitive bidding (West Virginia Code section

wages on construction of public improvements (West Virginia Code Section 21-5A-1 *et seq.*).

3. In its Order of January 21, 2003, the Circuit Court of Kanawha County stated in this matter:

10. Pursuant to W.Va. Code section 29-22-18a(d)(3), revenue bond proceeds shall be expended as authorized by this section “in accordance with the requirements and provisions of article five-a, chapter twenty-one of this code [21-5A-1 *et seq.* (Wages for Construction of Public Improvements)] and either article twenty-two or article twenty-two-a, chapter five of this code [5-22-1 *et seq.* (Government Construction Contracts) or 5-22A-1 *et seq.* (Design-Build Procurement Act)] as the case may be:...”

11. Pursuant to W.Va. Code 29-22-18a, all projects that receive funding from the revenue bond proceeds must pay a wage which is no less than the prevailing hourly wage for work of a similar character in the locality in the state in which the construction is performed. See W.Va. Code section 21-5A-2.

4. The expenditure of millions of dollars for the “public financial support for constructing, equipping, improving and maintaining economic development projects, capital equipment projects and infrastructure which promote economic development in this state” (West Virginia Code section 29-22-18a(d)) will lead to the creation of thousands of prevailing wage construction jobs that will have a positive impact on the economic development in this State.

5. For example, with regard to just some of the six projects that ACT understands were approved by the Grant Committee by the time of the final hearing before the Circuit Court, the applicants estimate the following construction jobs: Charleston Baseball Project: 400 - 600 construction jobs; the I-79 Technology Park

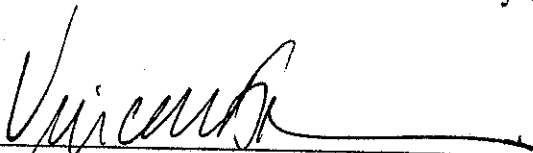
Development Project: 450 construction jobs; and the Wheeling Victorian Outlet Center: 686 construction jobs (Phase I) and 462 construction jobs (Phase II).

6. Should this Court accept the *Petition for Appeal* filed in this matter, the issues then before it have the potential to impact ACT, its members and the public. ACT has a direct interest in the outcome of the matter in that the outcome has the potential for the creation of thousands of prevailing wage construction jobs and the resulting economic stimulus. An *amicus curiae* brief by ACT would be instructive to this Court in that it would provide a prospective of an entity that has been involved in issues of economic development on behalf of its members and the public.

WHEREFORE, the Affiliated Construction Trades Foundation requests entry of an order granting leave of this Court to file a *Brief as an Amicus Curiae*.

The Affiliated Construction Trades Foundation, a  
division of the West Virginia State Building and  
Construction Trades Council, AFL-CIO

By Counsel.



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**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that service of **Motion for Leave of the Court to File a Brief as an Amicus Curiae** has been made by depositing a true and exact copy thereof in the U.S. Mail, postage pre-paid on February 18, 2003 to the following:

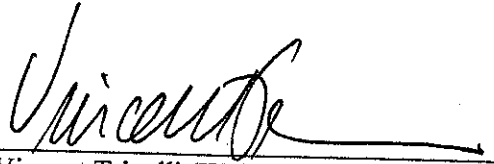
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