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**REAL ESTATE UPDATE****Ohio's Prevailing-Wage Law**

On June 30, the Ohio Supreme Court issued a unanimous opinion holding that Ohio's prevailing-wage law does not apply to work performed on a private development project that is financed by both public and private funds.

In the case, a private, for-profit company acquired real estate with a federal grant administered by an Ohio county and the same county's local economic development loan program. The company then renovated the building using private equity and financing. The total acquisition and renovation cost was \$685,000, of which 49 percent was "public" and the balance private.

Northwestern Ohio Building & Construction Trades Council sued to stop the project, broadly arguing that a technical reading of portions of the prevailing-wage statute (RC 4115.03) triggered the requirement to pay prevailing-wage for all project work "merely upon an institution's expenditure of public funds, regardless of whether the project involves actual construction of a public improvement."

The Ohio Supreme Court disagreed and broadly held that "the prevailing-wage law applies only when a public authority ... spends public funds to construct a 'public improvement,' which by definition must be constructed by a public authority or must benefit a public authority." The facts in this case could support the narrower proposition that prevailing-wage does not apply if public funds are not used for actual construction. However, the plain language of the Supreme Court's decision suggests a broader rule that prevailing wage is required only where public funds are used for construction of a public improvement by or on behalf of a public authority or for the benefit of a public authority.

**FOR MORE INFORMATION**

If you have questions on this topic, please contact a member of our **Real Estate** practice group.

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