

Bond Case Briefs

Municipal Finance Law Since 1971

LABOR & WAGES - DISTRICT OF COLUMBIA

District of Columbia v. Department of Labor

United States Court of Appeals, District of Columbia Circuit - April 5, 2016 - F.3d - 2016 WL 1319453

Private developers of public land who had leased District of Columbia property to construct privately funded mixed-use development featuring residential, office, retail, and open public spaces in public-private partnership filed suit, along with District of Columbia, challenging determination by Department of Labor's (DOL) Administrative Review Board (ARB) that development constituted "public work" within meaning of Davis-Bacon Act.

After labor organization and several individual workers intervened, the United States District Court for the District of Columbia entered summary judgment in plaintiffs' favor, and DOL appealed.

The Court of Appeals held that:

- Lease agreements and development agreements between District of Columbia and private developers were not "contracts for construction" under Davis-Bacon Act, and
- Development was not "public work" within meaning of Davis-Bacon Act.

Lease agreements and development agreements between District of Columbia and private developers regarding privately funded mixed-use development on property leased from District were not "contracts for construction," and thus Davis-Bacon Act's prevailing wage requirements did not apply to project, even though lease contemplated developers entering into future contracts with third party construction contractor.

Privately funded mixed-use development on property leased from District of Columbia was not "public work" subject to Davis-Bacon Act's prevailing wage requirements, even though District helped plan project, and project would produce benefits for public, where District did not expend any funds for construction, and development was privately owned and operated.