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Living wage group withdraws appeal

By: Lea Kahn , Staff Writer

The Lawrence Living Wage Coalition withdrew its appeal of Aug. 30 ruling by state that the group cannot take steps to enact a municipal minimum wage ordinance.

The Lawrence Living Wage Coalition has withdrawn its appeal of state Superior Court Judge Linda Feinberg's Aug. 30 ruling that the group cannot take steps to enact a municipal minimum wage ordinance.

The coalition notified the Appellate Division of Superior Court of its intention to withdraw its appeal in a Jan. 22 letter.

The coalition withdrew the appeal "with prejudice," a legal term that means the coalition could not bring back the appeal at a later date.

"Looking at the issue and the litigation prospects, we figured that whatever happened, the loser will want to take it to the New Jersey Supreme Court," said attorney Falk Engel, one of four attorneys representing the coalition.

The coalition has been since last year wanting to raise the minimum wage for selected employers in Lawrence.

Mayor Gregory Puliti said he was pleased the coalition withdrew its appeal.

"It certainly is good news," he said. "It means the township doesn't have to spend money defending a decision that our attorney (Kevin Nerwinski) thought was the right decision. It is not an issue that is in Township Council's purview."

The issue landed in state Superior Court after Township Council tabled action on the proposed ordinance at its Aug. 15, 2006 meeting. The coalition had gathered 1,054 signatures on a petition in support of the ordinance, which gave the coalition the legal footing to force Township Council to consider it.

Mr. Nerwinski told the council that he wanted to get a judicial ruling on whether the township has the legal authority to set its own minimum wage. The ordinance would have applied to retail merchants that occupy at least 100,000 square feet of space and whose gross sales exceed \$1 billion.

The state minimum wage is \$7.15 per hour, but the coalition sought to raise it to \$11.08, plus a benefits rate of at least \$3.50 per hour. There would be subsequent cost-of-living adjustments for the hourly and benefits rates.

In her Aug. 30 ruling, Judge Feinberg wrote that state law sets the minimum wage. It does allow towns to set higher minimum wages for vendors, contractors or subcontractors that are hired by the town, but not for people who work for retail businesses.

Mr. Engel said this was the first time that a municipal living wage ordinance had been brought before a court in New Jersey. The coalition was asking the Appellate Division to rule on something that it had never ruled on before, he said.

But the coalition realized it could not meet the resources of its opponents — Township Council and the New Jersey Retail Merchants Association, he said. The merchants association joined the issue on behalf of the township.

"We felt it would be more prudent to withdraw at this time," Mr. Engel said. "The resources of the coalition and the support we have is such that it would simply be an overwhelming burden to fight Township Council and the New Jersey Retail Merchants Association."

"We certainly continue to favor the viewpoint that residents of Lawrence should have been able to vote on the issue of a living wage ordinance," he said. "We made our argument and we stand by it."

"Obviously, we will look at alternatives," he said. "We are on the cusp of this thing. I do not make any apologies for representing the interests of the taxpayers and working people in Lawrence."

Mr. Engel said the issue of a living wage is a political one and should be addressed at the state level by New Jersey lawmakers. Township Council passed on the Lawrence Living Wage Coalition's petition to state lawmakers for consideration one week after Judge Feinberg issued her ruling.