

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL
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D.C. Circuit Rules in District's Favor on CityCenterDC Case

Court Agrees Federal Law Does not Apply to Private Project Developed on District-Owned Land

WASHINGTON, D. C. – The U.S. Court of Appeals for the District of Columbia Circuit has ruled in the District's favor that CityCenterDC, which is a private development that was constructed on District-owned land leased to private developers, is not a "public work" and thus is not subject to the federal Davis-Bacon Act. The Court agreed with the Office of the Attorney General (OAG) that the Act's provisions do not apply to CityCenterDC. OAG attorneys successfully argued that the federal Department of Labor overreached when it attempted to apply the Davis-Bacon Act to the project.

"The District is the only city or state in the country whose local public works are governed by the Davis-Bacon Act, and we are pleased that the Court agreed with our view that the Department of Labor's interpretation of the law in this case was in error," Attorney General Karl A. Racine said. **"An adverse decision would have put the District at a significant disadvantage in future development projects involving city-owned land, and this ruling is an important victory for our economy and our taxpayers."**

A panel of judges for the D.C. Circuit, in an opinion written by Circuit Judge Brett Kavanaugh, agreed with the District, saying that the Act did not apply to CityCenterDC because the District was not a party to the contracts for its construction and because the project did not constitute a "public work." The Court added that an attempt to apply the Davis-Bacon Act to the project would constitute a significant expansion of that law's application – an application that no other court has upheld.

"To qualify as a public work, a project must possess at least one of the following two characteristics: (i) public funding for the project's construction or (ii) government ownership or operation of the completed facility, as with a public highway or public park. Here, CityCenterDC's construction was not publicly funded, and CityCenterDC is not a government-owned or government-operated facility. So CityCenterDC is not a public work," Judge Kavanaugh wrote.

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A copy of the Court's opinion is attached.

“I want to thank Assistant Attorney General Carl Schifferle as well as a former OAG Assistant Attorney General who has since retired, Wayne Beyer, for their excellent work on this case,” Attorney General Racine added.

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