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# The Earn Burn

October 19, 2005, 12:00 am

By

\*\*\*image6\*\*\*

Santa Fe's living wage is set to rise-and so are the stakes.

Maria Paredes knows it's risky to talk.

There's a lot at stake here: her livelihood, food on the table for her two children, the life she's forged since coming to the US from Guatemala three years ago.

Paredes glances over at Tomás Rivera, an organizer with the Living Wage Network, who sits on a couch next to her in the sparsely decorated living room of Paredes' white-walled mobile home. He nods his encouragement.

The pretty 25-year-old flashes a smile as the familiar sounds of her two young children Angie and Oscar tussling playfully in another room bounce off the walls around her. She takes a deep breath and tells her story.

Paredes is employed by Santa Fe Sage Inn on Cerrillos Road where she cleans disarrayed rooms and washes dirty sheets, 40 hours a week for \$7 an hour.

\*\*\*image21\*\*\* The Living Wage Network maintains that Paredes, and her fellow workers, are entitled to \$8.50 an hour under the city's living wage law and the subsequent raises soon coming under the law's phased increases. Paredes agrees. "We deserve the \$8.50, and we deserve the \$9.50," Paredes says in Spanish. "We pay for food, gas, bills like everyone else, but we raise our children on \$7 an hour. It's not right."

The living wage law was implemented by the city in June, 2004 after protracted public debate and litigation. It stipulates set wages for businesses with 25 or more employees.

Paredes and her former supervisor say the hotel is using workers from another hotel under the same management company to skirt the intention of the law. The company denies the allegations.

Indeed, while the living wage law is ostensibly a cut-and-dry piece of legislation, more than



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one year after its initiation-and just a few months away from the next mandated pay increase-it appears to be anything but.

SFR has learned that over the past year, the city has investigated and concluded that the College of Santa Fe bookstore, run by College Book Stores of America, and La Quinta Inn both are out of compliance, although there has yet to be any action taken. The Living Wage Network is in the process of compiling a complaint about Sage Inn to bring to the city.

These specific instances highlight the ongoing conflict in Santa Fe over the law. It's a conflict that extends beyond the issue of a paycheck. Some in the business community maintain the law will, over time, put them out of business and say it is an unfair fix to Santa Fe's economic development woes. The recent and contentious voter defeat of a similar law proposed for Albuquerque has lent fodder to the fire of those opposed to the law, and foretells a potentially bitter debate in January's legislation session when Gov. Bill Richardson is expected to push a statewide minimum wage increase.

For Santa Fe, the debate also is sure to inform the March, 2006 city elections. Already, candidates' positions on the law's successes, failures and future are being gauged.

Santa Fe is one of only a handful of cities with such a law on the books. The living wage law's impact here is likely to shape more than this city's future. It also could create the framework for how the entire country approaches the issue.

Although complex on a large scale, it's a simple situation for Paredes: "I'm going to fight for this," she says. "All the girls are going to fight for this."

They may have to.

The white-tiled marquee under the unassuming black and green Santa Fe Sage Inn sign makes a quiet but persuasive pitch to tourists: "Best Rates Near Plaza."

A few years back, under previous ownership, the hotel went by the drab moniker Santa Fe Budget Inn. Despite the new name, the rooms-at \$49 to \$79 and in close proximity to the Plaza-are indeed a good deal in a city where Plaza-area rooms cost in the hundreds per night.

At Sage, there are 156 modest rooms. They all are cleaned by Spanish-speaking women like Paredes, who began working at Sage approximately six months ago. Shortly after she started, Paredes and her housekeeping supervisor, Maria Sandoval, say they began seeing employees from another hotel, Inn of the Governors, working beside Sage employees.

This combination of employees, they say, pushed the number of workers at Sage to more than 25. Subsequently, both met with management numerous times to find out why Sage employees were not being paid the living wage when there were clearly more than 25 employees working. For the last month the Living Wage Network looked into the situation before concluding Sage was using employees from Inn of the Governors and decided Sage was "actively trying to circumvent the law," Rivera says.

\*\*\*image24\*\*\* Further, Sandoval, who was in charge of the housekeepers and being paid \$11 an hour, says she was ultimately fired because she raised the alarm.

"It was retaliation," she says. "I think it's disgusting that businesses can get away with this and fire someone when they speak out. Ask the mayor how he can survive on \$7 an hour."

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It's a question better posed to David Delgado, the mayor's son, and one of the hotel's co-owners. When contacted, Delgado said he assumed the hotel was in compliance, and referred all calls to Team Plus Management, the Florida-based hotel management company that runs both Sage and Inn of the Governors.

Calls to Jeff Vander Wolk, owner of the Inn of the Governors, also were referred to Team Plus Management.

According to Team Plus partner and Sage General Manager Charlotte Silva, Sage employs fewer than 25 workers, including some part-time workers from the Inn of the Governors. In a subsequent e-mail Silva also said she'd met with the city attorney to "insure our compliance with the ordinance."

\*\*\*image23\*\*\* Sage also supplied SFR with an eight-month report on employee numbers that showed a range from 12 to 24. For one month, there were 25 employees and a notation stating that during that month "Maria" from "HSKP" "over-hired" and was told to reduce the number of employees.

Silva also pointed out, via e-mail, that the Inn of the Governors uses an "Opportunity Management" program that provides profit sharing to employees on a monthly basis—an average of \$200 per month for the 24 months the program has been in place. Team Plus Management, she says, plans to incorporate as a non-profit in Santa Fe to implement this program elsewhere. Sage, she says, is the company's first client.

Silva also denied Sandoval had been fired in retaliation for her complaints about the living wage law, and pointed out that Sandoval had not filed a grievance to that effect, as allowed under the law.

That grievance could be coming; the Living Wage Network says it plans to file an official complaint against Sage with the city shortly.

It won't be the only one.

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On May 16, private investigator Gilbert Ulibarri walked into the La Quinta Hotel on Cerrillos Road and asked the one worker standing behind the front desk if he was making \$8.50.

The worker laughed and told Ulibarri something to the effect of, "I wish!"

Ulibarri then approached the hotel's manager, Jody Henrie, and asked why La Quinta was paying its workers under the city minimum of \$8.50. The hotel chain employs 22 workers in Santa Fe. (According to the city, if a company employs more than 25 workers, even if they all are not in the city, they are subject to the living wage statute.)

\*\*\*image12\*\*\* La Quinta spokeswoman Teresa Ferguson tells SFR the hotel currently pays its Santa Fe employees at least \$8.50 an hour, but could not say if that had been the case previously. La Quinta attorney Jeff Schagren, also its assistant general counsel and vice president, echoed those sentiments by saying: "Our position is that we are in compliance with the law. I can't speak to what may or may not have been the case before."

According to Ulibarri, when he spoke with Schagren last spring, the lawyer "basically told me to tell the city to take them to court."



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The city didn't take La Quinta to court though. The city has yet to pursue any legal action against any business over violations of the living wage law.

"The City of Santa Fe takes the living wage law very seriously," Assistant City Attorney Angela Pacheco, who oversees enforcement of the law, says between bites of what sounds like an enormous apple. "We take violations very seriously and we'll do what we need to do to enforce it."

\*\*\*image1\*\*\*Pacheco says she relies exclusively on complaints from workers or the public about a particular business in order to initiate an investigation. Those complaints are first vetted by the city's Citizen and Plaza Affairs Manager Sevastian Gurulé. This past April, after gathering specific complaints about nine businesses, the city hired Ulibarri, who works for the Robert Caswell Investigations company in Albuquerque, to dig deeper.

It was the list of nine businesses that prompted Ulibarri's visit to La Quinta. It also sent him to the College of Santa Fe bookstore. These were the two businesses, out of the nine, where Ulibarri concluded violations of the law were taking place.

The bookstore is operated by College Book Stores of America (CBA). The store's manager of two years, Sharon DiLeo, says she was fired in February after telling her CBA superiors that the company was not paying the living wage to an employee, Yahminah McDonald.

\*\*\*image17\*\*\*CBA only employs a handful of employees at the College of Santa Fe, but operates more than 100 bookstores throughout the country. As with La Quinta, because the business has more than 25 employees, even if all of them aren't in Santa Fe, the living wage law must be complied with, according to the city.

"It was incredibly frustrating," DiLeo says. "Once I started telling CBA they needed to pay Yahminah more, the whole exchange became antagonistic. It was essentially harassment."

Ultimately, DiLeo says, she was told by CBA corporate brass that she'd made a mistake with the cash register and was being fired because of it.

"I raised issues about the pay on numerous occasions, and that's why I was fired," DiLeo says. "It was clearly retaliation."

McDonald, who at the time was working up to 35 hours at the bookstore and earning \$7.50, filed a complaint with the city about her wages in February and met with Ulibarri on May 17.

"I was being treated unfairly for the amount of work I was doing," McDonald, who still works for CBA, says. "They made it seem like such a big deal to raise my pay."

\*\*\*image18\*\*\*In an e-mail to SFR, Jim Klund, CBA's chief executive officer, says DiLeo was not fired because of anything to do with wages. He also says he is unclear as to whether the company's Santa Fe store needs to comply but that the store is adhering to the law nonetheless.

"As the city's living wage increases, we are left with no option but to decrease the hours worked by employees. Eventually, we may have to make the decision whether or not we can continue to operate the store for the college," Klund writes. "If a person wants to work for an offered salary, isn't it their decision whether or not to work for the offered wages?"

As for CSF itself, Marcia Sullivan, assistant vice president for college relations, says while the college "can't set wages" for subcontracted businesses, "we do monitor and request that

businesses we contract with abide by local restriction. We did not know they were in violation."

\*\*\*image13\*\*\* It's unclear what action, if any, will be taken against La Quinta and CSF following Ulibarri's investigation, or if Sage might face a city investigation after the Living Wage Network files its complaint.

According to Pacheco, legal action as the result of the living wage law has been stalled because the suspension of Municipal Judge Fran Gallegos created flux in the court.

Nonetheless, Pacheco says, "these two businesses are clearly in violation and refusing to co-operate. I know individuals have been frustrated with the slowness with which we've proceeded. But this is new to us too. It's a work in progress."

But Living Wage organizer Rivera says his group has spent considerable time over the last year visiting businesses and educating workers, largely Hispanic, of their new rights because the city hasn't been diligent in enforcing the law.

As for the businesses in violation, Rivera is more pointed:

"I think they're a disgrace," he says. "They feel like they can break the law. They lie to their employees. And they find loopholes to avoid doing what's right for their employees."

---

Most Santa Fe businesses do, however, appear to be abiding by the living wage law. That doesn't mean they like it.

\*\*\*image14\*\*\* On Jan. 1, the living wage increases to \$9.50. "This is the beginning of a significant market depression," Robbie Day, owner of San Francisco Street Bar and Grill and Santa Fe Bar and Grill, says. "We've always maintained this is the wrong way to deal with this issue. It's just the wrong way."

Day was a plaintiff in a 2003 lawsuit brought by New Mexicans for Free Enterprise against the city. The suit delayed the living wage law for more than a year and remains pending before the New Mexico Court of Appeals.

Day takes particular issue with the idea that any business owner opposed to the living wage is automatically characterized as a money-hording Ebenezer Scrooge.

"If I'm so rich, then why have I been working seven days a week for years now?" he asks with incredulity.

More key, he says, the law fails to adequately address the problems it is supposed to remedy.

For example, businesses with fewer than 25 employees are exempt. That means those workers are not paid the living wage, even though employees of larger businesses are, which creates a lack of parity between businesses.

\*\*\*image15\*\*\* Further, larger businesses hiring new workers must pay them \$8.50, which would seem to mandate raising the wages of more experienced and tenured employees, also for parity's sake between workers. That scenario, Day says, inevitably will force businesses to raise the prices of their goods or services.

"Ultimately, it ends up causing a higher cost of living for everyone," he says. "Businesses here are having trouble dealing with \$8.50, but they're really anxious about the \$9.50 and the \$10.50. This thing is short-sighted, it's ineffective and call it what you will, but it's not working."

The Santa Fe Chamber of Commerce, which has long grumbled about the City Different acting more like the City Indifferent when it comes to businesses, also is quick to argue the living wage already has been a virtual guillotine for some local establishments; Pranzo Italian Grill, The Hilton, Hastings, Mustang Gas, Wing Basket and Santa Fe Seasons have all either changed ownership or shut down because of the ordinance, according to the Chamber.

"Death by Living Wage," screamed the remarkably tabloid-y headline of the usually placid Albuquerque Journal, recounting the demise of Wing Basket in a Dec. 7 story.

"Now that's a *powerful* headline," Chamber Vice President Simon Brackley says with the slightest hint of amusement hidden beneath the seriousness of his point.

Brackley predicts an increasing number of businesses will end up fleeing the city limits to avoid a similar fate.

To gauge just how bad the collateral damage has been, the Chamber recently sent out a questionnaire to its members.

The responses so far run the gamut—from resignation at the prospect of layoffs to rantings at the idiocy of the City Council to breakdowns as to how the ordinance will hurt their particular business. All convey frustration.

Numbers may be more noteworthy than anecdotes, according to Brackley, who rattles off recent Department of Labor statistics in his Roger Moore-inflected British accent.

The unemployment rate in Santa Fe rose from 3.9 percent to 5 percent between Dec., 2004 and June, 2005.

"That's a lot of people who aren't working anymore," Brackley concludes.

When it comes to numbers, however, it's Aaron Yelowitz, the hotshot 36-year-old economist with MIT credentials and a University of Kentucky assistant professorship under his belt, who is the Chamber's most important ally.

Yelowitz met former Chamber president Jerry Easley in Washington, DC at a US Chamber of Commerce convention in 2004. At Easley's request, Yelowitz traveled to testify on behalf of New Mexicans for Free Enterprise when the living wage first went to court later that year.

\*\*\*image5\*\*\*Yelowitz' latest study says the living wage in Santa Fe isn't working. Funded by the Economic Policy Institute, a Washington, DC think tank, and released in September, Yelowitz' report concludes the living wage has significantly increased unemployment in Santa Fe between June of 2004 and 2005 by approximately 3.2 percent. The increase, Yelowitz says, unduly affected locals with fewer than 12 years of education.

Living wage defenders scoff that Yelowitz' data is skewed and the timing of the study suspicious, given its release just prior to Albuquerque's failed attempt at a living wage on Oct. 4 (both are claims denied by Yelowitz).

At the front lines of the living wage defenders is Carol Oppenheimer, a labor lawyer who helped fight for the law's implementation.

"It's just more of the same sky is falling, doom and gloom," she says. "It's ludicrous! They're just rehashing the same things all over again."

Oppenheimer, a veteran of labor battles, has her own statistics, which she practically shouts good-naturedly into the phone when challenged.

According to Oppenheimer, the DOL shows unemployment in Santa Fe was down 1.2 percent between August and July of this year.

\*\*\*image19\*\*\*"The Chamber's numbers are old," she says. "They're using old numbers."

Of particular relevance, Oppenheimer says, is that the leisure and hospitality industry, which long complained it would be hit hardest, gained 300 new jobs in 2005, according to the state Dept. of Labor.

Most important of all for Oppenheimer, however, are the intangibles.

"We have to remember what effect this law is going to have on the workers and their families outside of work," she says. "What about the mothers who can make breakfast for their kids because they don't have to work two jobs? What about the parents who can go to a PTA meeting because they don't have to take that extra shift? Our obligation as a city should be caring about economic justice. The magic of the market will take care of the rest."

It's the very same point that Paul Sonn of the Brennan Center for Justice, a research and policy group in New York City which helped the Living Wage Network in its work, makes in a report released in June of this year.

"In Santa Fe, the minimum wage workers who received raises were overwhelmingly adults, predominantly people of color and typically contributed a share of the family's income," Sonn writes.

Still, both sides know well that all evidence being propagated at this point is essentially meaningless. It changes from month to month, doesn't yet convey a comprehensive picture of what's happening and can be used by either camp to prove a point.

What may be more crucial are the results from a forthcoming \$98,000 University of New Mexico study on the impacts of the law. That study was mandated by the City Council when the ordinance was originally passed, but its July due date was delayed due to the lawsuit that delayed the law itself.

\*\*\*image12\*\*\*The Chamber and its supporters want the January wage hikes put on hold until the study comes out. On Oct. 11, Councilor David Pfeffer introduced a resolution to do just that and both Rebecca Wurzburger, Carol Robertson-Lopez and mayoral candidate Karen Walker have said publicly they also think it's a good idea to absorb the study before implementing the \$9.50 minimum wage.

Not Oppenheimer.

"It's because of New Mexicans for Free Enterprise and businesses that the study was delayed in the first place," she says. "It's not fair for the workers to be penalized."

As for the study itself, Dr. Lee Reynis, director of the Bureau of Business and Economic Research (BBER) at University of New Mexico, says its results could be ready for the city by the end of December if that's what is requested.

The study will be a cost of living and business survey, with focus groups and secondary state numbers on wages, gross receipt taxes and welfare programs.

"This will not be anecdotal information," Reynis says. "There are a variety of things we can pull before the end of the year which would probably give a reasonable idea of what's going on."

Whether the city will request that information before December remains to be seen. But it certainly is bound to come out before March, when voters will head to the polls to decide on a new mayor and potentially new city councilors. The living wage law looks destined to weigh heavily in those races.

It certainly did in Albuquerque.

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"Don't get caught in the trap," the commercial read. "No more lies, no more deception."

The ad was part of a hard-hitting campaign sponsored by the Greater Albuquerque Chamber of Commerce against the living wage, which appeared on that city's recent mayoral ballot.

Apparently it worked. The living wage was put to Albuquerque voters on Oct. 4 and just barely failed.

"The ads played a big role," Brian Sanderoff, president of Research and Polling, a market research company in Albuquerque, says. "A month before the election, before their campaign really kicked off, we did a poll and found that 61 percent of people supported the living wage. By election time, it was down to 49 percent."

One of the groups which supported the ad campaign was New Mexicans for Free Enterprise. Next on their agenda is the Santa Fe city elections in March, where a new council and a new mayor could conceivably repeal the law down the line.

"We're not like that that one city councilor who's running for mayor called us, 'Enemies of the Worker,'" Robbie Day says referring to City Councilor and mayoral candidate David Coss. "He was a state worker right? Has he every owned a business?"

Coss will likely be the most public advocate for the living wage. His campaign is managed by Carol Oppenheimer's husband, fellow labor lawyer and union supporter Morty Simon. Although Coss' support of the living wage is bound to make him a target during the campaign, Coss believes the arguments against the law are stale.

"The argument people are making against the living wage now is the same one they made for not going forward at all," Coss says. "We have a lot of stressors on our economy right now-like high gas prices thanks to the Bush administration. I think it would be unfortunate if we go to the poorest workers in the community and say, 'Hey, we have economic problems, so we're going to cut your wages.'"

For candidates, the living wage law presents a political tightrope, where support of the business community and the workers of Santa Fe often can be pitted against one another. Exemplifying that conflict are the words of mayoral candidate and realtor Karen Walker.



"I support workers, but I support the local businesses too," Walker says. "I've heard about the strain, local businesses have told me about the impact on them. I'm concerned for the entire community and the entire economy. I'm very concerned."

The concern about the fate of Santa Fe's living wage law is not confined to the city limits.

Many cities and states are watching and waiting to see how the law plays out. While numerous municipalities have some form of living wage law in the works, and San Francisco and Washington, DC have ones comparable to Santa Fe's, this city's-because of its wage requirement and the far-reaching grasp of the law-is one of the most impactful.

"Everyone wants to see what happens here," economist Yelowitz says. "This is the test case."

For Maria Paredes, however, the time for action is now, regardless of the politics, regardless of the consequences.

She plans to continue to speak out for the living wage at the Sage Inn, even though she's worried she'll lose her job.

"We just deserve it," Paredes says, bouncing her children on either knee. "Everyone deserves it."

The way she sees it, her family most of all.

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