

PRESENTATION TO
THE PHELPS COUNTY TAX INCREMENT FINANCING (TIF) COMMISSION

May 4, 2016

(Please make this presentation a part of the official record of the Phelps County TIF Commission)

Menards has a terrible record of labor, environmental and other abuses
Menards should not be encouraged to come to Rolla

Labor Violations

Menards has been cited by the National Labor Relations Board for numerous violations

Of Menards forced arbitration policy, attorney, Lisa McDermott writes "I had never come across an employment agreement that informed the employees so little about what their rights were."

Menards may no longer automatically cut managers pay 60% if employees form a union.

Menards may no longer deny pay raises to employees for talking about unions.

Menards may no longer deny employees the right to file complaints with the NLRB or join class-action suits.

In addition:

Menards settled a discrimination suit for \$1 million for passing up managers for promotion on the basis of race.

Minutes after an employee placed a load of tiles on a high shelf, it fell on a customer killing him. Abused employees are not careful employees.

Environmental Violations

Menards is the worst environmental violator in the State of Wisconsin with 21 violations and millions of dollars in fines

Manufactured and sold arsenic-tainted mulch

Illegally removed and dumped asbestos-containing pipe insulation

Placed pallet of herbicide in parking lot illegally

Store contained floor drain that ran directly into tributary of Chippewa River.

Damaged a stream running through its property in South Dakota

Assessments

Menards has frequently challenged assessments and appraisals of their property. They are suing Mount Pleasant, Wisconsin over appraisal of one of their stores.

Corruption

Multi-billionaire owner, John Menard, wrote more than \$1.5 million in checks to a Scott Walker political advocacy group and received \$1.8 million in special tax credits from a state economic development corporation that Wisconsin governor, Scott Walker chairs.

Boycott

There is a campaign on social media to boycott Menards.

Conclusion

Menards is a bad actor and not the kind of store we should want in Rolla. It is unbelievable that anyone would even consider spending millions of dollars of taxpayer money to bring an abusive store like Menards to Rolla.

Other Considerations:

Jobs:

I do not think that low wage jobs working for an abusive employer are the kind of jobs Rolla needs.

Taxes:

It is quite likely that Rolla would lose tax revenue should the TIF succeed and bring Menards to

Rolla. With Lowes, Meeks and the Family Center already in Rolla, the home-improvement builder-supply market is saturated. It is likely that almost every dollar in sales at Menards would mean one less dollar of sales at another Rolla store. And the developer gets to keep half the tax revenue on sales at Menards — a net loss to Rolla and Phelps County.

Sources: (first two sources reproduced in Appendices 1 and 2 respectively)

<http://indianapublicmedia.org/news/complaint-indiana-menards-leads-companywide-97920/>

<http://urbanmilwaukee.com/2016/04/07/back-in-the-news-john-menards-anti-union-rules/>

<http://www.progressive.org/news/2015/12/188450/managers-menards-stand-lose-big-money-if-unions-form>

<https://www.yahoo.com/news/wisconsin-gov-scott-walker-photo-charlie-114429739886.html>

<http://www.twincities.com/2012/02/07/menards-ends-discrimination-claim-for-1-million/>

http://journaltimes.com/news/local/menards-again-challenges-assessment-of-mount-pleasant-store/article_6ec4c5c2-a950-5bb5-a7c9-b58ae9e4d50a.html

<http://www.citypages.com/news/menards-caught-threatening-workers-with-docked-pay-for-trying-to-unionize-8176415>

http://www.stltoday.com/business/local/nlrb-menard-inc-violates-labor-law-in-employee-treatment/article_b3505da6-8f2e-510c-8b20-82d46081e05a.html

<http://www.freep.com/story/news/local/michigan/macomb/2014/09/03/attorney-fieger-to-sue-over-death-of-menards-shopper-hit-by-pallet-of-tiles/15037239/>

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Appendix 1

Complaint At Indiana Menards Leads To Company-wide Changes

By Annie Ropeik

Posted April 28, 2016

<http://indianapublicmedia.org/news/complaint-indiana-menards-leads-companywide-97920/>

On Wednesday, the NLRB announced it had found parts of the Menards arbitration and pay raise rules were illegal.

An employee rights complaint by a former Valparaiso Menards clerk led this week to a labor victory for all 45,000 of the home improvement chain's workers across the Midwest.

The issue was over mandatory arbitration, which is legal — companies can require employees settle complaints out of court, but they have to make sure employees know what rights they're giving up.

Lake County attorney Marissa McDermott says her client, Janet Payne, was fired after bringing a doctor's note to excuse an absence at Menards. The Wisconsin-based company wanted the case thrown out of court, because Payne had signed a document agreeing to arbitration.

But McDermott says that document was really unclear.

"I had never come across an employment agreement that informed the employees so little about what their rights were," she says.

It didn't explain that arbitration meant employees couldn't ask for jury trials or file labor charges, she says, and it didn't make clear that workers wouldn't have to pay an arbiter themselves.

"While I have in other cases consented to arbitration, I thought that this was an agreement that had to be challenged," McDermott says.

The Office and Professional Employees International Union agreed with her. Its lawyers were already fighting Menards on the issue, but hadn't gotten the case to the federal level. They had also complained to the NLRB about Menards policies threatening managers with a big pay cut if their store unionized, and denying employees pay raises if they talked about unions on the job.

Those manager pay cuts are no longer in effect, after a Progressive Magazine investigation last year, but other policies were ongoing. So McDermott and the union teamed up to bring the issue to an Indiana District Court judge, who asked the NLRB to investigate.

On Wednesday, the NLRB announced it had found parts of the arbitration and pay raise rules

were illegal. Menards settled the case, and will change its rules to let workers join class-action suits and file complaints with the NLRB. It'll also do away with the restrictions on pay raises.

McDermott says Janet Payne's original case will now be able to proceed in court.

She adds it's a major victory when Indiana courts have often favored mandatory arbitration in the past, and because "Menards is an outlier in just how far they take their anti-union stance."

The company has delayed several new stores in recent years, citing concerns about the Obama administration's labor policies and the upcoming election.

Its founder, billionaire John Menard Jr., has also been a big supporter of pro-business politicians. Last year, Yahoo News reported he secretly gave \$1.5 million to a group supporting former GOP presidential candidate and Wisconsin Gov. Scott Walker. Yahoo also reported that Menard Jr. received \$1.8 million in tax credits from a development group Walker chaired.

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Appendix 2

John Menard's Anti-Union Rules

A Menards manager leaks a copy of adamantly anti-union contract used by the company.

By Bruce Murphy - Apr 7th, 2016 12:59 pm

<http://urbanmilwaukee.com/2016/04/07/back-in-the-news-john-menards-anti-union-rules/>

We already knew that home-improvement tycoon John Menard was the state's worst environmental violator, not to mention a rather bizarre fellow.

Now there's evidence that Menard, whose net worth of \$10.9 billion makes him the worlds 116th wealthiest man, is also one of the state's worst employers, when it comes to anti-union rules. A story by Bill Lueders for Progressive published a copy of the employment agreement for managers which stipulates that "The Manager's income shall be automatically reduced by sixty percent (60%) of what it would have been if a union of any type is recognized within your particular operation during the term of this Agreement."

"The contract was provided by a management employee who asked not to be identified for fear of repercussions," Lueders wrote. "The employee said the agreement is required for all management staff, adding that the threat was effective: 'The mere mention of the word 'union' is a workplace taboo.'"

Menard's antipathy to unions was first reported in a 2007 Milwaukee Magazine feature by Mary Van de Kamp Nohl that I edited. In the story, an ex-manager described the clause with the 60 percent pay cut if a store became unionized and said he was made to attend "a one-and-one-half-day seminar in Eau Claire about fighting unions."

Menard, reports Forbes (which did the latest ranking of his net worth), has "faced a number of high-profile lawsuits, including one from African-Americans who claim they were systematically denied promotions. The case was settled and Menard denied any wrongdoing."

The National Labor Relations Board declined to comment to Progressive as to whether this contractual clause for managers would violate labor rights. But Carin Clauss, an emeritus professor of law at UW-Madison who served as U.S. Solicitor of Labor from 1977 to 1981, told the magazine he believes "the company might be vulnerable if a complaint were to be filed with the NLRB."

Menard was last in the news about a year ago when Michael Isikoff, chief investigative correspondent for Yahoo News, reported that Menard "wrote more than \$1.5 million in checks to a pro-Walker political advocacy group that pledged to keep its donors secret." That group was the Wisconsin Club for Growth, run by the ever-busy Eric O'Keefe.

As Isikoff reported, “In the past two years, Menard’s company has been awarded up to \$1.8 million in special tax credits from a state economic development corporation that Walker chairs,” referring to the Wisconsin Economic Development Corp., which has been shadowed by constant problems and controversies since its creation. “And in his five years in office, Walker’s appointees have sharply scaled back enforcement actions by the state Department of Natural Resources — a top Menard priority,” Isikoff added.

Menard has been a poster boy for environmental violations in Wisconsin. His company has had more run-ins with the Department of Natural Resources than any other state company, receiving millions of dollars in fines for 21 violations. Menards was fined for disposing hazardous waste in 1994, charged by the Minnesota Attorney General in 2003 with manufacturing and selling arsenic-tainted mulch, fined \$2 million in 2005 for having a floor drain that Wisconsin DNR officials believed was dumping chemicals into a tributary of the Chippewa River, hit with an administrative order from the U.S. Environmental Protection Agency for damaging a stream that ran through its property in South Dakota and fined \$30,000 after an employee dumped a pallet of herbicide on a parking island of a Menard store in Onalaska.

Menard is also one of the donors who have given at least \$1 million to the Koch Brothers, according to Mother Jones, to help supports its conservative causes. Menard was also a major donor to an anti-union program run by the Koch-funded Americans for Prosperity.

In 2013, Menard won national attention and plenty of gossip after a titillating suit (that is still ongoing) accused him of “intentional infliction of emotional distress, battery, attempted battery, assault” and “attempted assault” against Tomisue Hilbert, the wife of Stephen Hilbert, a longtime business associate of Menard’s

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