

D.R. NO. 98-15

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

IRVINGTON HOUSING AUTHORITY,

Public Employer,

-and-

Docket No. CU-98-7

SEIU LOCAL 617, AFL-CIO,

Petitioner.

Appearances:

For the Public Employer
Mandell Berezin & Booker, attorneys
(Will J. Fergus, Jr., of counsel)

For the Petitioner
Balk, Oxfeld, Mandell & Cohen, attorneys
(Arnold S. Cohen, of counsel)

DECISION

On July 25, 1997, the Service Employees International Union Local 617, AFL-CIO ("SEIU"), filed a clarification of unit petition with the Public Employment Relations Commission. The petition originally sought to clarify SEIU's nonsupervisory unit to include employees in seven titles employed by the Irvington Housing Authority. On September 30, 1997, the SEIU amended its petition; it only seeks the addition of the housing inspector and assistant housing manager into the unit. The Authority opposes the petition; it claims that the two titles do not fall within the scope of the recognition clause of the parties' collective negotiations agreement.

We have conducted an administrative investigation and make the following findings.

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SYNOPSIS

The Director of Representation dismisses a clarification of unit petition filed by Local 617, Service Employees International Union, AFL-CIO, which sought to have the housing inspector and assistant housing manager employed by Irvington Housing Authority clarified into SEIU's non-supervisory unit. The Director finds that the titles were administrative in nature but that the parties' recognition clause does not include administrative titles.

The Authority and SEIU have a current collective agreement, which is effective from April 1, 1995 through March 31, 1998. The recognition clause states, in relevant part:

The Authority recognizes the Union as the exclusive majority representative of the maintenance, clerical, security, skilled tradesmen and boiler operator employees (nonsupervisory) of the Authority.

The Authority provided the official job descriptions for the titles in dispute. The housing inspector title was created and filled by Anthony Vauss in September 1996. The assistant housing manager position was created and filled in April 1997 by Bernice Jones. Both Vauss and Jones submitted notarized statements describing their duties.

The housing inspector reports to the housing manager. He performs inspection work necessary to eliminate blight and restore subnormal housing. This includes inspecting apartments and writing reports. Vauss is familiar with and applies the housing quality standards set forth in the Code of Federal Regulations, governing electrical, building construction, paint, window, plumbing and heating standards. He also insures the Authority's compliance with applicable municipal standards. There are 675 conventional units and 238 other properties within the housing inspector's jurisdiction.

The assistant housing manager reports to the housing manager and handles tenant complaints. Her duties include a range of administrative activities. She is responsible for recertification of units within the Authority's jurisdiction. She assists in monthly rent collections, reviews applications for

housing, testifies in court in nonpayment cases, processes lease renewals, collects information, calculates rent and insures the adequacy of units related to recertifications. She interviews tenants, handles social and economic tenant problems, makes referrals to social service agencies and organizes recreational activities.

These positions do not fit within the parties' recognition clause. Petitioner's unit includes skilled trade, clerical and maintenance employees. The functions and responsibilities performed by unit employees are unrelated to the administrative tasks performed by the disputed positions. The petitioned for titles operate at a different level of responsibility than unit employees. While the housing inspector does require expertise in construction, it does not require the use of manual skills. The assistant housing manager's duties are administrative in nature. The recognition clause does not contemplate the inclusion of administrative employees.

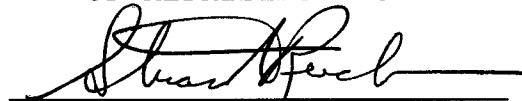
Where a petition seeks to enlarge the scope of a unit, a clarification petition may not be used to add positions not identified or contemplated by the parties' recognition clause. Clearview Reg. Bd. of Ed., D.R. No. 78-2, 3 NJPER 248 (1977). On the basis of the facts herein, these are administrative positions, not "maintenance, clerical, security, skilled tradesmen or boiler operator employees." Clearview outlines the appropriate use of a clarification petition:

The purpose of a clarification of unit petition is to resolve questions concerning the scope of a collective negotiations unit within the framework of the provisions of the Act, the unit definition contained in a Commission certification, or as set forth in the parties recognition agreement. Normally, it is inappropriate to utilize a clarification of unit petition to enlarge or to diminish the scope of the negotiations unit for reasons other than the above, and ... relates primarily to identification ... occasionally, a change in circumstances has occurred, ... a new title may have been created ... [or] the employer may have created a new operation or opened a new facility [which would make] a clarification of unit proceeding appropriate. [Id. at 251.]

Newly created titles will be clarified into a unit only if they fall within the definition of the scope of the existing recognition clause of the parties' collective negotiations agreement. Barnegat Tp. Bd. of Ed., D.R. No. 84-15, 10 NJPER 54 (¶15029 1983).

Based on the above, I find that the housing inspector and assistant housing manager employed at the Irvington Housing Authority do not fall within the scope of the recognition clause of the parties' collective negotiations agreement.^{1/} However, the petitioned-for titles are not appropriate for clarification into the unit and the petition is dismissed.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION



Stuart Reichman, Director

DATED: April 2, 1998
Trenton, New Jersey

^{1/} To the extent these titles may be includable in this unit, SEIU, Local 617 may file a representation petition to add these titles to the unit at the appropriate time.