

D.R. NO. 91-1

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

In the Matter of

CITY OF ELIZABETH,

Public Employer,

-and-

UNION COUNCIL NO. 8, NJCSA,

Docket No. RO-90-158

Petitioner,

-and-

LOCAL 455, ELIZABETH CITY YARD
WORKERS, a/w SEIU, AFL-CIO,

Incumbent.

SYNOPSIS

The Director of Representation dismisses a representation petition seeking to sever several titles from a blue collar Department of Public Works unit represented by SEIU. The Director dismissed the petition because no facts suggested that severance was appropriate under the standard set in Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61 (1971).

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Appearances:

For the Public Employer
Murray, Murray & Corrigan, attorneys
(Karen A. Murray, of counsel)

For the Petitioner
Fox and Fox, attorneys
(Stacey Rosenberg, of counsel)

For the Incumbent
SEIU, Local 455, AFL-CIO
(Max Wolf, Secretary-Treasurer)

DECISION

On April 27, 1990, Union Council No. 8, NJCSA ("Council 8") filed a Petition for Certification of Public Employee Representative seeking to represent a negotiations unit of all "blue collar employees" of the City of Elizabeth Department of Public Works, Sewer Department ("City"). Council 8 seeks to represent laborers,

operators, masons and truck drivers. Council 8 seeks to sever these titles from a broad-based, blue collar unit represented by Local 455, Elizabeth City Yard Workers, affiliated with Service Employees International Union, AFL-CIO ("SEIU"). The unit currently has about 100 employees. The SEIU objects to the severance of the petitioned-for employees from its existing unit and does not consent to an election. It requests that the petition be dismissed because there is no basis for severance.

The City of Elizabeth ("City") also opposes the petition and refuses to consent to an election because it sees no basis for severance of the bargaining unit and believes that the existing broad-based unit is appropriate.

An administrative investigation was conducted into the matters and allegations involved in the petition pursuant to N.J.A.C. 19:11-2.2 and 2.6. The investigation reveals the following facts.

Local 455, Elizabeth City Yard Workers, affiliated with SEIU is the majority representative of about 100 employees in the titles of blacksmith, carpenter, construction inspector, equipment operator, garage attendant, laborer, maintenance repairer carpenter, mason, mechanic, mechanic hydraulic, mechanics helper, motorbroom driver, principal clerk and radio dispatcher, pump station operator, pump station repairer, security guard, sign designer, processor and letterer, traffic maintenance worker, tree climber, truck driver and welder. The unit excludes all foremen, supervisors, and office and

clerical employees. The most recent collective negotiations agreement signed by the City and the SEIU covered the period from April 1, 1988 through March 31, 1990. The SEIU's request to intervene was granted. N.J.A.C. 19:11-2.7(b).

Council 8 seeks to represent laborers, operators, masons, truck drivers and repairmen only. These titles represent about one-third of the total number of employees in the existing unit. The City also negotiates with the City Yard Supervisors Association, which represents DPW supervisors and has negotiated a contract covering the period from April 1, 1990 through March 31, 1992. Council 8 represents a unit of blue collar employees employed by the City of Elizabeth Water Utility. The unit was certified after a Commission election in May 1984, docket no. RO-84-83. No facts show that the Elizabeth Water Utility is the same employer as the City or that the Water Utility employees were ever included in the City's broad-based, blue collar unit which the petitioner now seeks to sever. The parties do not contest these facts.

Under the circumstances, we find that the negotiations unit sought by the petitioner is inappropriate. The Commission has established a standard by which petitions requesting severance of employees from an existing unit must be considered. In Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61 (1971), the Commission stated:

The question is a policy one: Assuming without deciding that a community of interest exists for the unit sought, should that consideration prevail and be permitted to disturb the existing relationship in the absence of a showing that such relationship is unstable or that the

incumbent organization has not provided responsible representation. We think not. To hold otherwise would leave every unit open to redefinition simply on a showing that one sub-category of employees enjoyed a community of interest among themselves. Such course would predictably lead to continuous agitation and uncertainty, would run counter to the statutory objective and would, for that matter, ignore that the existing relationship may also demonstrate its own community of interest.

See also Mercer Cty., P.E.R.C. No. 89-112, 15 NJPER 277 (¶20121 1989); Sussex-Wantage Bd. of Ed., P.E.R.C. No. 88-113, 14 NJPER 346 (¶19133 1988); Middletown Tp. Bd. of Ed., P.E.R.C. No. 88-44, 13 NJPER 841 (¶18322 1987); Passaic Cty. Tech. and Voc. H.S. Bd. of Ed., P.E.R.C. No. 87-73, 13 NJPER 63 (¶18026 1986).

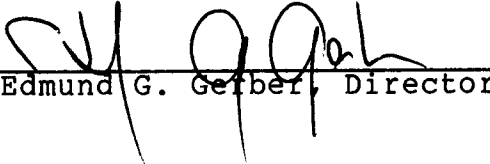
The petitioner has not alleged that the existing collective negotiations relationship between the City and SEIU is unstable or that the SEIU has not provided responsible representation to blue collar DPW employees. I note that no party has presented information concerning allegedly inadequate grievance processing or inadequate representation in collective negotiations.

N.J.S.A. 34:13A-6(d) provides that the Commission shall determine the appropriate unit for collective negotiations. In making unit determinations, we must consider the general statutory intent of promoting stable and harmonious employer-employee relations. State v. Professional Association of N.J. (Dept. of Education), 64 N.J. 231 (1974). No facts in this case have suggested that the SEIU and the City have an unstable negotiations relationship or that the SEIU has inadequately represented all unit

employees. Accordingly, I find that Council 8 has not met the standard justifying the severance of several blue collar titles from the existing overall unit of blue collar DPW employees.

Based upon the foregoing, we hereby dismiss the petition seeking to sever some blue collar employee titles from the unit represented by Local 455, Elizabeth City Yard Workers, affiliated with SEIU.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Edmund G. Geiber, Director

DATED: July 6, 1990
Trenton, New Jersey