

P.E.R.C. NO. 83-27

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HIGHLAND PARK,

Respondent,

-and-

Docket No. CO-81-311-12

HIGHLAND PARK P.B.A. LOCAL NO.
64, INC., GREGORY KRONOWSKI,
FRANK ATHERTON and PATRICK
REAGAN,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint based on an unfair practice charge which the Highland Park PBA, Local No. 64, Inc. and three police officers filed against the Borough of Highland Park. The charge had alleged that the Borough violated subsections N.J.S.A. 34:13A-5.4(a)(1), (2) and (3) of the New Jersey Employer-Employee Relations Act when it instituted a rotation system in its police department that resulted in the transfer of the three officers -- who were also PBA officers -- because of their protected activities. The Commission concludes that neither the rotation system nor the transfers were motivated by anti-union animus and that the officers would have been transferred even in the absence of their protected activity since the transfers would eventually involve all officers and were based on seniority.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HIGHLAND PARK,

Respondent,

-and-

Docket No. CO-81-311-12

HIGHLAND PARK P.B.A. LOCAL NO.
64, INC., GREGORY KRONOWSKI,
FRANK ATHERTON and PATRICK
REAGAN,

Charging Parties.

Appearances:

For the Respondent, Aron, Till & Salsberg, Esqs.
(Richard M. Salsberg, of Counsel; Rodney T. Hara, On
the Brief)

For the Charging Party, Robert Bradley Blackman, Esq.

DECISION AND ORDER

On April 7, 1981, the Highland Park P.B.A. Local No. 64 ("PBA") filed an unfair practice charge against the Borough of Highland Park (the "Borough") with the Public Employment Relations Commission.^{1/} The charge alleged that the Borough violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), specifically subsections 5.4(a)(1), (2), and (3),^{2/} when, on March 16, 1981, it instituted a rotation system in its police department that required officers Kronowski, Atherton,

^{1/} The charge was amended on April 27, 1981.

^{2/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act; (2) Dominating or interfering with the formation, existence or administration of any employee organization; and (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act."

and Reagan to be transferred from their specialized bureaus into the patrol division. The PBA alleges that these police officers, who were PBA officers and members of the negotiation team, were transferred in retaliation for their exercise of protected rights under the Act.

On July 24, 1981, the Director of Unfair Practices issued a Complaint. The Borough filed an Answer in which it denied that it had committed any unfair practice and asserted that it was within its managerial prerogative to rotate members of its police staff for legitimate business justifications.

On October 5 and 6, 1981, Commission Hearing Examiner Edmund G. Gerber conducted hearings at which the parties examined witnesses and presented evidence. Post-hearing briefs were filed.

On June 22, 1982, the Hearing Examiner issued his report and recommendations, H.E. No. 82-62, 8 NJPER ____ (¶ ____ 1982) (copy attached). He found that the Borough violated subsections 5.4(a)(1) and (3), even though the borough administrator ordered the rotation system in good faith, because the Chief of Police, who implemented the system, had yielded to pressure, applied by former councilpersons and the present mayor, to transfer these three employees because of their protected activities. He recommended that the new rotation system be rescinded and, if implemented again, be free from any unlawful taint.

On July 7, 1982, the Borough filed Exceptions. It contends that the Hearing Examiner erred in concluding that the execution of the borough administrator's legitimate order was

tainted by prior pressure applied against the Chief. It further contends that it would have implemented the same rotation system regardless of the three employees' union involvement and that those three officers would still have been the first ones transferred from their bureaus into the patrol division since the transfers were made strictly on seniority.

On July 27, 1982, the PBA filed a brief in support of the Hearing Examiner's recommendations.

East Orange Public Library v. Taliaferro, 180 N.J. Super 155 (1981), sets forth a two-part test for determining if an employer's alleged anti-union motivation makes a personnel action illegal. The charging party must first establish that his protected activity was a substantial or motivating factor in the employer's decision. If the charging party succeeds, then the employer has the opportunity to establish that it would have reached the same decision in the absence of the charging party's protected activity.^{3/} In the instant case, we find both that the officers' protected activity was not a substantial motivating factor in their transfers and that a decision to transfer all officers would have been made, regardless of the protected activity of these three officers.

We find the following facts to be crucial to our analysis of

^{3/} The Taliaferro Court borrowed this test from the decision of the National Labor Relations Board in Wright Line, A Division of Wright Line, Inc., 251 NLRB No. 150, 105 LRRM 1169 (1980), aff'd as modif. 108 LRRM 2513, 661 F.2d 899 (1st Cir. 1981), cert. den. (March 1, 1982). The NLRB, in turn, based its test on the decision of the United States Supreme Court in Mt. Healthy City School Dist. Bd. of Ed. v. Doyle, 429 U.S. 274 (1977). See also, e.g., In re County of Bergen-Operating Bergen Pines County Hospital, P.E.R.C. No. 82-117, 8 NJPER 360 (¶13165 1982).

this dispute. Gregory Kronowski has been a policeman for the Borough for eight years. He was president of the PBA during 1980-81 and previously was its vice-president. Prior to his transfer to the patrol division in March 1981, he was a detective in the juvenile bureau for approximately three years. Contrary to the bureau's past history, he was not promoted to detective after his first year in the bureau even though the chief of police had made numerous requests to the council. Such a promotion results in a salary increase of \$1,200.00 a year.

Frank Atherton is a State PBA Delegate who has been involved in collective negotiations since 1974. He is a patrolman who was assigned to the traffic division in May 1976, and has received specialized training in this area of police science. He testified that a position in the traffic division is considered a promotion by the officers since the hours are steady, Monday through Friday, and there are no rotating shifts as there are in the patrol division.

Patrick Reagan has been on the police force for approximately eight years. He has been in the detective division since late 1977, but has never been promoted to a permanent position in that division by the town council despite a recommendation from the police chief.

The officers testified that problems first arose between the town council and the PBA when collective negotiations became heated in 1979.^{4/} On May 6, 1980, Patrolman Atherton criticized

^{4/} There is no evidence that either party negotiated in bad faith.

the council at a public meeting. Further, about this time, the PBA supported three candidates in their race against council incumbents. There was testimony that several councilpersons, Irene Dworeck in particular, threatened these three officers with transfers.

On May 29, 1980, the three officers were transferred into the patrol division for the first time.^{5/} The transfers were made ostensibly to relieve a manpower shortage in the patrol division, but were made against the desires of Chief Arrisi. The three officers were transferred back to their individual bureaus in September 1980, after the 1980-81 contract had been resolved and after the PBA-backed candidates were elected. Former councilwoman Dworeck continued to write letters requesting the Chief to once again transfer Atherton to the patrol division.

On March 16, 1981, the transfers which precipitated the charge occurred. The setting for these transfers differs from the background for the previous settings. These differences are chiefly attributable to the hiring of a new Borough administrator -- Christine Meighan -- on January 21, 1981, the defeat of the anti-PBA council members, and the retirement of councilwoman Dworeck.

Meighan, as Borough administrator, had authority to hire, promote, transfer or fire all personnel. During her interview, she was told of the low morale within the police department and asked if she had any ideas to alleviate this problem. She

^{5/} These transfers are not the transfers which allegedly constituted unfair practices.

testified credibly that council did not tell her that it had problems with the PBA or that it wanted these three officers to be transferred.

Meighan also testified credibly that she thought of the rotation system in the police department on her own and without any council prompting. Her objective was to enrich the growth and development of each officer and boost the low department morale. The system was to work by rotating men from the patrol division into the traffic, juvenile, and detective bureaus. After a one year period, new officers would be rotated into the bureaus from the patrol division and those who had just completed their one year programs would be rotated again.^{6/}

Meighan sent a memo to the Chief of Police advising him that she wanted a rotation system implemented. The Chief met with her and inquired how he was to put the system into effect. She told him that he had free reign to implement the system as he best saw fit and he replied that he would transfer men by seniority. The three most senior officers from the patrol division were then transferred into the traffic, juvenile, and detective bureaus where they took the places of officers Kronowski, Atherton and Reagan. The latter officers were then transferrred into patrol division.^{7/}

^{6/} Meighan testified that she would not hesitate to change the program's format if it did not appear to be working and that even if the department had not been suffering from low morale, she would have initiated it.

^{7/} Kronowski, Atherton and Reagan were the least senior men in their bureaus, but are the next most senior men in the patrol division. They will be transferred back into the bureaus at the next rotation.

The Hearing Examiner found Meighan to have acted in good faith in implementing the rotation system. He, however, found the Chief's execution of her order to be tainted because, he found, the Chief yielded to the pressure of the Mayor and prior council members to transfer these three officers. We have reviewed the record and find that the evidence weighs more in the Borough's favor than the Hearing Examiner determined.

We do not deny that the evidence suggests that the previous council, and councilwoman Dworeck in particular, harbored ill feelings toward the PBA. Dworeck singled out officers Kronowski, Atherton and Reagan as troublemakers, sought their transfers, and made these views known to Chief Arrisi. Further, Chief Arrisi was against the transferring of these men and when they were initially transferred in May 1980, he stated that he made the transfers with mixed emotions since he knew he was taking manpower from key areas. We, however, do not conclude that the Chief interpreted Meighan's order to implement a rotation system as a command to punish these three officers in particular.

In reaching this conclusion, we examine the circumstances surrounding Meighan's letter to Arrisi requesting the rotation system. The Hearing Examiner concluded, and we agree, that Meighan acted solely on her own and in good faith when she determined that a rotation system would be the best way to enhance the education and growth of the policemen and to boost sagging morale. There being no unlawful motivation behind the order, it then is necessary to study the Chief's motivation in executing the order.

Chief Arrisi had received pressure from councilwoman

Dworeck concerning the transfers. The record indicates that he had several letters in his file from Dworeck suggesting he make them. He also testified that the Mayor and the council had gotten "on his back" concerning Atherton and Reagan for an accident which occurred when they collided into each other in pursuit of another motorist. The council wanted Arrisi to place written letters of reprimand into their files. He did so, even though he determined that they had done nothing wrong. These letters, however, were later expunged from the files by Arrisi with the Council's knowledge. It was in this climate that the Hearing Examiner determined Arrisi's motivation of transferring Kronowski, Atherton and Reagan.

At the time of the transfers, however, councilwoman Dworeck was no longer on the council and three PBA-backed candidates were council members. Further, the Borough's chief administrative officer was new to the office and had no involvement in any of the previous council's activities toward the PBA or the three officers. If there was any taint accompanying Meighan's order, it was erased when Arrisi spoke to her about how she wanted the order implemented. She told him that it was up to him and allowed him to make the transfers based on seniority. She never told him that any men in particular would have to be transferred out of the bureaus to take the place of the patrolmen who were transferred into them. In fact, she mistakenly believed that no one would have to be transferred out of the bureaus to replace the void left in the patrol division. The Chief decided to make such transfers because the patrol division could not be

depleted. In light of these circumstances, we find that the chief was not motivated by unlawful pressure in transferring the three men out of their bureaus.

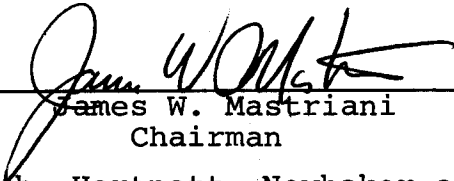
Since we find that neither the order to implement a rotation system nor its execution was motivated by anti-union animus, it is not necessary to analyze if the same activity would have resulted absent the protected conduct. Nevertheless, even assuming that anti-union animus was a substantial factor in determining how the order was executed, we are convinced that these officers would have been transferred in any event. It is clear both that a rotation system would have been instituted and that all officers would have been rotated into the patrol division at some point because the Chief needed to maintain manpower there. The Chief decided to use a seniority system to make the rotations. This seniority system resulted in the transfer of these officers first,^{8/} but any rotation system applicable to all officers would have resulted in their transfer at some time. Thus, we conclude that these men would have been transferred regardless of their protected activity. Accordingly, we dismiss the Complaint.

^{8/} The Hearing Examiner observed that since these three officers were rotated first, they would be next in line to be rotated back into the bureaus.

ORDER

The Complaint is dismissed.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Butch, Hartnett, Newbaker and Suskin voted for the decision. Commissioners Graves and Hipp opposed.

DATED: Trenton, New Jersey
September 14, 1982
ISSUED: September 15, 1982

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HIGHLAND PARK,

Respondent,

-and-

Docket No. CO-81-311-12

HIGHLAND PARK PBA LOCAL NO. 64,
INC., GREGORY KRONOWSKI, FRANK
ATHERTON and PATRICK REAGAN,

Charging Party.

SYNOPSIS

It is recommended that the Commission find that the Borough of Highland Park committed an unfair practice when it transferred three employees in accordance with a newly initiated rotation system. The officers were active in the Highland Park PBA. It was found that although the rotation system was ordered in good faith by the new Borough Administrator, the Chief of Police misinterpreted the directives to institute this program. The Chief of Police, prior to this most recent order, was subject to pressure by councilpersons of the Borough to transfer these employees. This pressure was unlawfully motivated. It was recommended that the new rotation order be rescinded and if a new rotation procedure is implemented, this procedure must be free of any unlawful taint.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission, which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law.

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF HIGHLAND PARK,

Respondent,

-and-

Docket No. CO-81-311-12

HIGHLAND PARK PBA LOCAL NO. 64,
INC., GREGORY KRONOWSKI, FRANK
ATHERTON and PATRICK REAGAN,

Charging Party.

Appearances:

For the Respondent
Aron, Till & Salsberg, Esqs.
(Richard M. Salsberg, Esq.)

For the Charging Party
Robert Bradley Blackman, Esq.

HEARING EXAMINER'S RECOMMENDED
REPORT AND DECISION

On April 7, 1981, the Highland Park PBA Local No. 64 (PBA) brought an unfair practice charge against the Borough of Highland Park (Borough) alleging that the Borough violated N.J.S.A. 34:13A-5.4(a)(1), (2) and (3)^{1/} of the New Jersey Employer-Employee Relations Act (Act). It was specifically alleged that the Borough ordered a system of rotating patrolmen into the traffic bureau and detective division, thus removing Gregory Kronowski, president of the

1 These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act; (2) Dominating or interfering with the formation, existence or administration of any employee organization; (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act."

PBA, Frank Atherton, State Delegate of the PBA, and Patrick Reagan, secretary of the PBA, from positions they had held for a number of years. It was claimed this action was taken in retaliation for the exercise of protected rights under the Act.

After an amendment to the charge on April 27, 1981, and it appearing that the allegations of the charge if true might constitute unfair practices within the meaning of the Act, a Complaint and Notice of Hearing was issued on July 24, 1981. Pursuant to that complaint and Notice of Hearing, hearings were held on October 5th and 6th in New Brunswick, New Jersey, before the undersigned, Edmund Gerber, at which time both parties were given an opportunity to present evidence, examine and cross-examine witnesses, argue orally and present briefs. ^{2/}

The police force of the Borough of Highland Park consists of approximately 28 men. In addition to the regular duty assignments of patrolmen, there are three bureaus: the Traffic Bureau, the Detective Bureau and the Juvenile Bureau. The latter two are closely aligned. Frank Atherton is a patrolman assigned to the Traffic Bureau and has been there since 1976. He has had extensive training in the investigation of accidents in order to carry out his duties within that division. Further the Traffic Division officers work a steady duty time Monday through Friday shift, whereas the officers in the patrol division work rotating shifts. Atherton testified that being assigned to the Traffic Division is considered a promotion by the other officers as well as himself. Atherton was

^{2/} Briefs were received by December 10, 1981.

the president of the PBA local until mid-1980 and he is currently serving as State PBA Delegate.

Kronowski has been president of the PBA since mid-1980 and prior to that time served as a vice president. Kronowski was assigned to the Juvenile Aid Bureau in 1978. Contrary to the past history of the bureau, although he served for approximately three years in that position he never was promoted to the rank of detective but has remained a patrolman. Detectives make \$1200 a year more than patrolmen. However, Kronowski was given a detective's gold badge and the chief of police has made numerous requests to the Borough council to have Kronowski promoted to the rank of detective.

Patrick Reagan has served with the Detective Bureau since December 1977. Like Kronowski, the chief has recommended that Reagan be made a detective but the Borough council has never acted upon that request. Reagan testified that he is an officer in the PBA although there is no evidence as to what his position truly was.

All three officers testified as to the bad relationship between certain council members, the mayor and the PBA. There is also testimony as to poor relationships during negotiations. However, it is noted that the PBA and the Borough have successfully completed negotiations without the necessity of the use of interest arbitration. The three men specifically testified as to the bad relationship between PBA officers and Councilperson Dworeck. They testified that Dworeck had on several occasions threatened to have Atherton transferred because of the conduct of the PBA.

On May 29, 1980, the Chief of Police, Angelo Arrisi, transferred Kronowski, Reagan and Atherton to the patrol divisions. The letter ordering the move concluded, "These moves I make with mixed emotions, fully realizing that I am taking manpower from key areas where they are badly needed." Copies of the letter were sent to Mayor Mulhollen and the council members.

Atherton testified that prior to these transfers Arrisi advised him that the Borough council was requesting that he make changes within the police department but Arrisi assured Atherton that he was not going to allow the Borough Council to transfer within the police department and that Arrisi would fight the changes. Further, on May 6, 1980, Atherton read a prepared statement at a council meeting which was negative towards the council and the statement received coverage in the local newspapers. Shortly thereafter Arrisi informed Atherton and other officers the Borough Council was not pleased with their attendance at council meetings. Further at this same time, the PBA chose to endorse and support three rival candidates in their race against the council incumbents. The transfers, which were effective May 10, 1980, lasted until September 1, 1980, after the 1980-81 contract had been resolved and after the candidates supported by the PBA were elected. Both Officers Kronowski and Atherton testified that in late 1980 or early 1981 Chief Arrisi showed them a letter from former Councilperson Dworeck who had served as police commissioner. In that letter Dworeck stated that she would like to see the chief switch Atherton back to the patrol division.

In November 1980 the town council had voted to grant Chief Arrisi and his captain a pay raise. Shortly thereafter, without Arrisi's knowledge, the pay raise was rescinded and he did not receive his pay increase until after Kronowski, Atherton and Reagan were transferred for a second time. That second time was March 16, 1981, when Reagan, Kronowski and Atherton were all transferred out of their respective bureaus and three other patrolmen were transferred into those same positions. Chief Arrisi testified on behalf of the Borough. Arrisi made it clear that he did not approve of the transfers but in other respects he was not a forthright and candid witness. Many times he did not recall whether or not incidents happened and in general seemed to be upset and uncomfortable in testifying. He did mention how he received pressure from Mayor Mulhollen to discipline Atherton and Reagan for an automobile accident which occurred when they were pursuing a motorist who they had observed operating a vehicle in an unlawful manner. Arrisi had investigated the accident and found no improper conduct and refused to discipline the patrolmen.

I am satisfied Arrisi was aware that the mayor and city council had a sense of dissatisfaction with Atherton, Reagan and Kronowski and that this dissatisfaction was unrelated to their performance as police officers. Arrisi had attempted to resist the pressures to transfer and take other actions against these men which he perceived to be interference from the Borough administration. ^{2/} Further, on the basis of the testimony of Kronowski, Atherton and

^{2/} It is significant that Arrisi's plan for the rotation of officers was done on the basis of seniority so that Atherton, Reagan and Kronowski will be next in line among the patrolmen to be rotated into the three bureaus.

Reagan, I find that the pressure exerted by the mayor and council was motivated by their exercise of protected rights. See Laurel Springs Bd/Ed and Mary Becken, P.E.R.C. No. 78-4, 3 NJPER 228 where the Commission held that "it is the intent of the Act to protect public employees in their proper activities in support of their majority representative. This includes activities designed to inform the public of their view of a particular dispute or issue as well as their activities at the negotiating table.

The transfers which were made effective in April 1981 were at the directive of the City Administrator Christine Meighan. Meighan has been the Borough Administrator since January 12, 1981. She testified that the transfers were solely her own idea. She had heard from some current councilmen, not to be confused with the ones that had been voted out of office, that morale was low on the police department. Further, three patrolmen had approached her and told her essentially the same thing. She testified that she had a friend who had served as a chief of police in another town. This individual had once talked to her about the advantage of having patrolmen rotate into various bureaus within the police department for the purposes of training. He felt this made better police officers and a better police department. After hearing these comments about the police department Meighan contacted this friend and discussed the possibility of instituting a similar program in Highland Park. She testified as to how the idea of the transfers came out of these conversations. They were completely her own idea and were unrelated to any past history of transfers at least

within the police department. She also testified that the reason why Arrisi did not receive his announced raise was that the Borough Council had asked her to conduct evaluations of all department heads within the Borough and, after attempting to do so, she realized that she had no objective basis on which to conduct them. She believed that she needed a year on the job before she could accurately evaluate employees. Accordingly, the evaluation program was abandoned and all employees were given their raises after a several month delay.

The Association made accusations that Meighan had become friends with former councilperson Dworeck with the inference that it was at Dworeck's suggestion that Meighan instituted the transfer policy. Meighan admitted that after coming to work in Highland Park she had come to know Dworeck but maintained that Dworeck had not even discussed this issue with her and played no part in her decision to implement this policy. Meighan's testimony was forthright and credible and I so credit it. What is significant was Meighan's testimony that it was she who "asked for a rotating system to get the men into the bureaus, not to take any men out" and she further testified she did not anticipate that people would have to be removed from bureaus in order to accommodate the patrolmen into the rotation program and left the mechanics and implementation completely up to the chief. Although Meighan's actions were in good faith and were completely free of any unlawful taint, the chief had been under protracted pressure vis-a-vis Atherton, Reagan and Kronowski. It is evident to the undersigned that Arrisi inter-

preted Meighan's order in the light of all the pressure he had received heretofore. He assumed that the order meant that he had to remove the three officers; that is, he made presumptions about the order that were not contained within the order. Arrisi interpreted the order the way that he did because of prior pressure and interference of the mayor and councilpersons over the past several years. This pressure had its roots in Atherton and Kronowski's activities on behalf of the PBA. In effect, the execution of the order became tainted.

The Commission has adopted the National Labor Relations Board test for determining unlawful motivation in (a)3 cases as enunciated in Wright Line, 251 NLRB No. 150, 105 LRRM 1169 (1980).

The charging party must first make a prima facie showing sufficient to support the inference that the protected conduct was a "motivating factor" in the employer's decision. Once this is established the burden will shift to the employer to demonstrate that the same action would have taken place even in the absence of protected conduct.

See, In the Matter of Madison Borough, P.E.R.C. No. 82-46, 8 NJPER (1981); In re Borough of Stone Harbor, P.E.R.C. No. 82-96, 8 NJPER (1982); In re East Orange Public Library and Constance Taliaferro, 180 N.J. Super. 155, 163 (1981).

Here the Association presented a prima facie case but the Borough did not demonstrate that the same action would have taken place in the absence of the prior pressure placed upon Arrisi. ^{3/} Had Arrisi known that the order to implement a rotating assignment plan did not mean he had to remove the three officers, the implementation of the order might have been very different.

3/ This pressure as discussed above was unlawfully motivated.

Accordingly I hereby recommend the Commission find that the Borough of Highland Park violated §5.4(a)(1) and (3) of the Act when the officers were transferred. In order to cure the taint I am recommending that the Commission order that the rotating assignment plan as it is currently constituted be rescinded. Arrisi now knows what the intent of the order was and accordingly may institute a new rotating patrolman program free of unlawful taint. The councilpersons who oppose the PBA are now out of office and the pressures to discriminate against the officers in question are now gone.

Recommended Order

The Hearing Examiner recommends that the Commission ORDER:

A. That the Borough of Highland Park cease and desist from:

1) Interfering with, restraining or coercing its employees in the exercise of protected rights by transferring Atherton, Reagan and Kronowski out of their respective bureaus.


2) Discriminating against Atherton, Reagan and Kronowski for the purposes of discouraging the exercise of protected rights by transferring Atherton, Reagan and Kronowski out of their respective bureaus.

B. That the Borough of Highland Park take the following affirmative action:

1) Rescind the current Bureau Rotation Program. The Borough may institute a new Bureau Rotation Program but it must be free of all taint of unlawful interference.

2) Post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice, on forms to be provided by the Commission, shall be posted immediately upon receipt thereof and, after being signed by the Respondent's authorized representative, shall be maintained by it for at least sixty (60) consecutive days thereafter. Reasonable steps shall be taken by the Respondent to assure that such notices are not altered, defaced or covered by other materials.

3) Notify the Chairman of the Commission within twenty (20) days of receipt what steps the Respondent has taken to comply herewith.



Edmund G. Gerber
Hearing Examiner

Dated: June 22, 1982
Trenton, New Jersey

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify our employees that:

WE WILL NOT interfere with, restrain or coerce our employees in the exercise of protected rights by transferring Atherton, Reagan and Kronowski out of their respective bureaus.

WE WILL NOT discriminate against Atherton, Reagan and Kronowski for the purposes of discouraging the exercise of protected rights by transferring Atherton, Reagan and Kronowski out of their respective bureaus.

WE WILL rescind the current Bureau Rotation Program.

BOROUGH OF HIGHLAND PARK

(Public Employer)

Dated _____

By _____

(Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced, or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with James Mastriani, Chairman, Public Employment Relations Commission, 429 E. State State Street, Trenton, New Jersey 08608 Telephone (609) 292-9830.