

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

In the Matter of

COUNTY OF MORRIS,

Public Employer,

-and-

MORRIS COUNTY COMMUNITY
DEVELOPMENT EMPLOYEES ASSOCIATION,

DOCKET NO. RO-82-108

Petitioner,

-and-

MORRIS COUNCIL #6, NEW JERSEY
CIVIL SERVICE ASSOCIATION,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, dismisses a Petition filed by the Morris County Community Development Employees Association seeking to represent professional and nonsupervisory employees in the Department of Community Development, County of Morris. The petitioned-for employees are currently included in a broad-based countywide unit which is represented by Morris Council #6, NJCSA. The Director, reiterates Commission policy that severance of a narrow grouping of employees from an existing larger unit will not be granted in the absence of a showing that the existing unit is unstable or that the incumbent representative has not provided responsible representation to the employees.

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Appearances:

For the Public Employer
Edward Horan, Director

For the Petitioner
Anthony Scozzafava, Representative

For the Intervenor
Morris & Hantman, attorneys
(Allen Hantman of counsel)

DECISION

On November 4, 1981, a Petition for Certification of Public Employee Representative, supported by an adequate showing of interest, was timely filed by Morris County Community Development Employees Association (the "Association"). ^{1/} The Association

^{1/} The Association amended its Petition to reflect the actual name of the petitioning organization on February 5, 1982, and more precisely defined the scope of the petitioned-for unit.

seeks to represent professional, nonsupervisory employees in the Department of Community Development, County of Morris (the "County"). The petitioned-for employees are currently included in a broad-based countywide employee unit which is represented by Morris Council #6, New Jersey Civil Service Association ("Council 6"). Council 6 does not consent to a secret ballot election, and objects to the severance of the employees from its overall countywide unit. The County has not taken a position in this matter.

The undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the Petition in order to determine the facts.

Based upon the administrative investigation to date, the undersigned finds and determines as follows:

1. The disposition of this matter is properly based upon the administrative investigation herein, it appearing that no substantial and material factual issues exist which may more appropriately be resolved at a hearing. Pursuant to N.J.A.C. 19:11-2.6(b), there is no necessity for a hearing where, as here, no substantial and material factual issues have been placed in dispute by the parties.

2. The County of Morris is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"), is the employer of the employees who are the subject of the Petition and is subject to the provisions of the Act.

3. Morris County Community Development Employees Association and Morris Council #6, New Jersey Civil Service Association are employee representatives within the meaning of the Act and are subject to its provisions.

4. The Association has petitioned the Commission to represent a collective negotiations unit of all professional, nonsupervisory employees of the Morris County Department of Community Development. There are approximately 11 employees in the proposed unit. There is no dispute that the petitioned-for employees are currently included in a unit of "all full-time, part-time, classified, permanent and provisional employees" of the County, which unit is represented by Council 6. The Association cites, as reasons to support the requested severance of the petitioned-for employees from the unit, certain factors such as professional status, work performed in a non-county-owned building, and the federal funding of the Department.

5. Council 6 objects to the severance of the petitioned-for employee grouping from its broad-based countywide unit. It asserts that there is a community of interest which is shared by these and other unit employees. It further questions the asserted professional status of the petitioned-for employees. ^{2/}

At an informal conference conducted by the assigned Commission staff agent, the parties were advised of the Commission's

^{2/} The petitioned-for titles include the following: Assistant Director - Property Improvement; Senior Cost Estimator - Property Improvement; Senior Cost Estimator/Appraiser; Senior Cost Estimator/Relocation Assistant; Senior Loan Advisor - Property Improvement; Project Monitor; Administrative Analyst; Senior Program Analyst.

policy favoring broad-based negotiations units, and that severance of a narrow grouping of employees from an existing larger unit would not be granted in the absence of a showing that the existing unit is unstable or that the incumbent representative has not provided responsible representation to the employees.

In In re Jefferson Tp. Bd. of Ed., P.E.R.C. No. 61 (1971), the Commission stated:

The underlying 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 re-definition simply on a showing that one sub-category of employees enjoyed a community of interest among themselves. Such a 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.

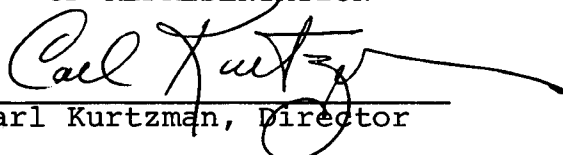
In the instant matter, the Association has not asserted that the existing relationship is unstable, or that the incumbent representative has not provided responsible representation for the petitioned-for employees. The fact that there is a separate source of departmental funding and the fact that the petitioned-for employees work in a separate location are neither alone, nor together, sufficient reason to negate the employees overall community of interest with other county employees, with whom they share a multiplicity of contractual benefits. Additionally,

assuming arguendo that the petitioned-for employees are professional employees, it appears that there are other professional employees in the Council 6 negotiations unit. The severance of the instant employees from the broad-based unit would foster the development of a fragmented employee unit structure contrary to principles established by the Commission in In re State of New Jersey, 64 N.J. 231 (1974), aff'g P.E.R.C. No. 68 (1972).

By letter, dated May 14, 1982, the undersigned advised the parties that the petitioned-for unit appeared to be inappropriate and that the undersigned was inclined to dismiss the Petition for the reasons set forth above. The parties were reminded of their obligations under N.J.A.C. 19:11-2.7 to submit statements of position and/or documentary evidence in support of their respective positions, and were afforded an additional opportunity within which to respond. The undersigned stated that in the absence of facts placing in dispute any substantial and material factual issues which would warrant the convening of an evidentiary hearing in this matter, a determination would issue based upon the administrative investigation. There have been no further evidentiary proffers from the parties, nor has the undersigned received a reply to the May 14, 1982 correspondence.

Accordingly, the undersigned finds the petitioned-for unit inappropriate and dismisses the Petition herein.

BY ORDER OF THE DIRECTOR
OF REPRESENTATION


Carl Kurtzman, Director

DATED: June 3, 1982
Trenton, New Jersey