

L.D. NO. 99-1

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF MT. LAUREL,

-and-

Docket No. L-99-1

C.W.A. LOCAL 1034,

Appearances:

For the Township
Patricia Halbe, Township Manager

For the C.W.A. Local 1034
Florence McNamara, Vice President

DECISION

On April 26, 1999, the Township of Mt. Laurel and CWA Local 1034 agreed to submit to the Commission's Litigation Alternative program (LAP) a dispute concerning the unit eligibility of three clerk typist positions and one secretarial position. The parties have agreed that this decision is final and binding and resolves the issues as set forth in the parties' LAP Agreement dated April 26, 1999.

Based upon the information submitted to me by the parties and two of the employees themselves at an informal conference conducted on April 26, 1999, I find the following facts.

CWA Local 1034 represents employees employed by Mt. Laurel Township in two units. One is a clerical unit and the

second is a supervisory unit. Employee Janice Husted is a clerk typist/coordinator of clean communities program/coordinator of recycling. She is currently a member of the CWA clerical unit, was part of the CWA negotiations team during the most recent negotiations and recently resigned her position as shop steward. Both the Employer and the Union question whether Ms. Husted's position should be moved from the clerical unit to the supervisory unit or whether the position should be excluded from both units based upon the confidential nature of the duties performed.

The parties submitted a stipulated listing of Ms. Husted's job duties and a review and discussion of those duties at the April 26 conference presented the following.

Ms. Husted reports directly to the Director of Public Works. She performs clerical and administrative assistance to the Director which includes: typing of correspondence, internal memos and statements from the Director which deal with matters including discipline and labor negotiations; data collection and analysis of data for use by the Director in preparing negotiations proposals and strategy involving the supervisory and clerical CWA unit employees; primary responsibility for maintenance of employee personnel files and related records; preparation of disciplinary notices to employees from the Director and receipt of all employee drug and alcohol test results before the results are made known to effected employees, the results of which may lead to action taken against the employee. All of these duties related to labor

relations, negotiations and possible discipline are performed on a regular basis by Ms. Husted. There are no other employees performing these functions for the Director.

On occasion, Ms. Husted also schedules and directs the work of employees in the DPW. She also has effectively recommended discipline and has effectively recommended hiring of prospective employees.

The New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-3(g) defines confidential employees as:

...employees whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make their membership in any appropriate negotiating unit incompatible with their official duties.

Based on the foregoing facts and the statutory definition of "confidential employee," I find that the clerk typist/coordinator of clean communities program/coordinator of recycling position in the Township of Mt. Laurel is a confidential position within the meaning of the Act and must be excluded from the CWA clerical unit. I further find that while Ms. Husted may perform some supervisory duties, her position should likewise not be included in the CWA supervisory unit. In this respect, the great majority of Ms. Husted's duties involve clerical and administrative functions and any supervisory duties are limited. Additionally and most importantly, the clerical and administrative functions of this position give Ms. Husted access to, knowledge of and responsibility for preparation of information involved in the negotiations process and employee discipline as it relates to the CWA supervisory unit.

Thus, inclusion of this DPW position in the supervisory unit could compromise the employer's right to confidentiality concerning these issues if the position were included in the supervisory unit.

The position of clerk typist/coordinator of clean communities program/coordinator of recycling is hereby excluded from both the CWA clerical negotiations unit and the CWA supervisory negotiations unit as a confidential position.

The second position at issue is the position of clerk typist/township manager/administration and finance. This position is currently held by Sue Wesolowski who reports directly to the Township Manager and the Director of Finance. The position is currently not included in either the CWA clerical or supervisory unit.

The Employer and the Union agree that previous employees who held this position prior to Ms. Wesolowski handled human resources for the Township under the direction of the Township Manager. The Employer asserts and the Union does not dispute that Ms. Wesolowski will also handle human resources in the near future. Ms. Wesolowski has been in this position for less than nine months. Included in the human resources role will be maintenance of all employee medical insurance files and data and maintenance of all employee personnel files for the Township. Included in the maintenance of personnel files is the preparation of disciplinary actions at the direction of the Township Manager and/or Director of Finance. According to the Employer, these duties occur prior to the effected employees' knowledge of the proposed action.

Ms. Wesolowski also currently prepares the employee

payroll. As the clerk typist for the Director of Finance, Ms. Wesolowski has prepared and will continue to compile and prepare financial data used to develop the Township budget and negotiations proposals. These items are compiled and typed by Ms. Wesolowski at the direction of the Finance Director and Township Manager. The Township Manager is the Employer's negotiator and preparation of data, budget and negotiations proposals is done by the clerk typist prior to presentation at negotiations. Ms. Wesolowski is the sole employee having prior access and responsibility concerning these items.

Based upon the foregoing information, I find that the position of clerk typist/township manager/administration and finance, is a confidential position under the Act and must remain outside both the CWA clerical unit and the supervisory unit.

The third position to be resolved pursuant to this LAP Agreement, is that of clerk typist/affordable housing officer/zoning code enforcement in the Community Development Department. This position has never been included in either the CWA clerical or supervisory unit. The employee currently holding this position is Geri Bucci. Ms. Bucci reports directly to the department head of Community Development. In this position, Ms. Bucci is responsible for conducting investigations of alleged zoning code infractions by Township businesses and residents. The bulk of responsibility for this position focuses on administration of the affordable housing program. In this program, Township employees may apply for affordable housing financing pursuant to a court order for such

financing. Ms. Bucci ranks the employees' applications and is privy to applicants' personal and financial information related to the applications. She makes the final determination on the grant for each application. This position also has responsibility for communications with the Township Attorney and Township Planner as related to the affordable housing administration.

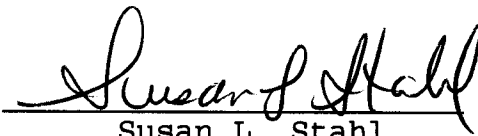
Ms. Bucci asserts that she has no role in preparing budgets or proposals for negotiations. Only her supervisor prepares budgets or proposals. She has no access to information used in this process and has no supervisory responsibility or authority. While the information concerning employees' applications for affordable housing may be sensitive and is kept confidential by Ms. Bucci, this information is not used or considered in anyway in the negotiations process.

Based upon the foregoing, I find that the position of clerk typist/affordable housing officer/zoning code enforcement in the Community Development Department is neither confidential nor supervisory within the meaning of the Act. Therefore, this position must be included in the CWA clerical unit effective immediately.

The final position at issue is that of the secretary to the chief of police for the Township of Mt. Laurel. The position is currently held by employee Cass Green and is not included in the CWA clerical or supervisory unit. The previous employee in this position also was not included in either of the CWA units. The Employer provided information at the April 26 informal conference concerning the duties of this position. The Union does not dispute

this information. The secretary to the chief of police reports directly to the Chief. She types all correspondence for the Chief including proposals for collective negotiations between the Township and the collective negotiations representative of the police officers. There is only one secretarial position reporting to the Chief of Police and this employee has access to all employee records and budget and finance information used by the Chief. She types disciplinary memos intended for members of the police officers unit. There is no evidence that this position has any supervisory responsibility.

Based upon the foregoing, I find that the secretary to the chief of police is a confidential employee and should not be included in either the CWA clerical or supervisory unit.


Susan L. Stahl
LAP Umpire

DATED: May 3, 1999
Trenton, New Jersey