

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGEN COUNTY BOARD OF CHOSEN FREEHOLDERS
Public Employer

and

Docket No. RO-103

LOCAL UNION NO. 84, AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN, AND HELPERS OF
AMERICA

Petitioner

BERGEN COUNTY BOARD OF CHOSEN FREEHOLDERS
Public Employer

and

Docket No. RO-114

LOCAL 25, MARINE DIVISION,
INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO

Petitioner

BERGEN COUNTY BOARD OF CHOSEN FREEHOLDERS
Public Employer

and

Docket No. RO-126

BERGEN COUNTY CIVIL SERVICE ASSOCIATION,
COUNCIL NO. 5

Petitioner

DECISION AND DIRECTION OF ELECTION

Pursuant to Notice and an Order of Consolidation, hearings were held before Hearing Officer Sally Parker to resolve questions concerning the representation of certain employees of Bergen County. Three petitions for representation had been filed claiming the following units to be appropriate:

Local Union No. 84, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (hereinafter Local 84) petitioned for a unit of all Road, Highway, Bridge and Maintenance employees; Bergen County Civil Service Association, Council No. 5 (hereinafter Council No. 5) petitioned for a unit of all blue collar employees of the County; Local 25, Marine Division, International Union of Operating Engineers, AFL-CIO (hereinafter Local 25) petitioned for a unit of all Dredgemen. Briefs were filed by the public employer and by Local 25 jointly with Local 84. Thereafter Hearing Officer Ronald Tobia was substituted by the Executive Director for the purpose of issuing a Report and Recommendation. Subsequently, the Hearing Officer issued his Report, recommending that a unit of all blue collar employees employed by the County of Bergen be found appropriate and that the petitions of Local 25

and Local 84 be dismissed. Exceptions to the Hearing Officer's Report and Recommendations were jointly and timely filed by Local 25 and Local 84. 1/

The Commission, after complete review and careful consideration of the record, exhibits, briefs, Hearing Officer's Report and Recommendations and exceptions, finds the exceptions to be without merit.

The initial series of exceptions contest the Hearing Officer's recommendation that "Council No. 5 be found to be an employee representative within the meaning of the Act"...and therefore, "be permitted to participate in the proceeding". Locals 25 and 84 attacked the status of Council No. 5 because of the dual position held by Miss Louise Brizzi, who at the time of the hearing was President of Bergen Council No. 5 and was employed as Superintendent of the Child Welfare Home of Bergen County. 2/ The question before the Hearing Officer was whether this duality of roles constituted employer domination of that organization which would bar Council No. 5 from participation as an employee representative.

The Hearing Officer found that Miss Brizzi had no authority to hire, fire, discipline or effectively recommend such actions. The record supports that finding and we adopt it. The record further reveals the following regarding Miss Brizzi's duties and responsibilities as Superintendent. She is in charge of the day to day operations of the Welfare Home, has a staff of some 50 employees, including 6 blue collar employees involved in this proceeding and is directly responsible to the Board of Chosen Freeholders. Annually she submits a budget request for the needs of the Home; monthly she submits a report of expenditures and income (contributions). She interviews job applicants but makes no recommendations on their suitability; hiring is reserved to the Personnel Department. She does recommend on temporary employees who are eligible to become permanent under Civil Service, but the record is inconclusive on the effectiveness and frequency of such recommendations; she has no responsibility in an employee's change in job classification. Personnel and pay policies are established by the Freeholders within the framework of Civil Service and Miss Brizzi is responsible to see that such are observed. She can authorize overtime within the guidelines established; she is expected to report employee infractions but makes no recommendation on what discipline, if any, should follow. Disciplinary hearings are conducted by the Freeholders, and the record cites one instance where Miss Brizzi testified in a proceeding where one of her staff had been charged - the Personnel Department had directed Miss Brizzi to bring charges against the individual. All requisitions are made through the Purchasing Department except that Miss Brizzi has been authorized to purchase certain groceries as an economy measure.

1/ In the form submitted the exceptions do not comply with the Commission's Rules and Regulations, Sec. 19:14-16. Considering that non-compliance, the number of exceptions and the size of the record, the Commission feels no obligation to comment upon each specific exception. In its discretion, the Commission will simply consider the sense of the exceptions. The exceptions recite that a supporting brief is attached, but none was, nor was one subsequently filed.

2/ Subsequent to the hearing, Miss Brizzi relinquished her position as President of Council No. 5 to become First Vice-President of the New Jersey Civil Service Association.

On this set of facts we do not believe that Miss Brizzi may properly be considered a managerial executive as that term is understood. The statute provides no definition, but the minimum elements are generally regarded to be substantial involvement in the formulation and determination of those policies designed to achieve the agency's principal objectives.

The designation no doubt applies to the Freeholders, but Miss Brizzi is seen as an administrator with no active participation or effective voice in, or responsibility for the formulation or determination of the policies she implements. Even as an administrator she has no effective role in hiring, firing or discipline and thus she fails to meet the definition of supervisor. It is equally clear however that she has and serves interests separate from those of the blue collar employees on her staff. But that is not to say that this factor of separate interests proves the contention of Locals 25 and 84 that Council No. 5 is dominated by the Employer. That claim is based solely upon the dual capacities of Miss Brizzi, as President of Council No. 5 and Superintendent of the Home. There is neither claim nor record evidence that the Freeholders have in other ways or by other means interfered with or dominated that employee organization. As indicated the claim is a more narrow one: that simply by virtue of her dual positions and in view of the authorities she possessed, domination is necessarily established. While the merits of the proposition might in other circumstances be seriously entertained and considered, the statute itself appears to foreclose the question on the facts here. The reference is to the following provision:

"...nor...shall any supervisor having the power to hire, discharge, discipline or to effectively recommend the same have the right to be represented in collective negotiations by an employee organization that admits non-supervisory personnel to membership, and the fact that any organization has such supervisory employees as members shall not deny the right of that organization to represent the appropriate unit in collective negotiations;..."

N.J.S.A. 34:13A-5.3

Assuming arguendo that Miss Brizzi had authority, for example, to discipline, she may not be represented by Council No. 5 in collective negotiations, 3/ but her membership would not disqualify Council No. 5 as an employee representative. Since Miss Brizzi has less than the authorities described in the statute, the same result would more easily obtain. Her position as President of the organization arises from her membership and from the internal procedures of that organization, not from an act of the Employer. If the Legislature concluded that supervisory membership would not affect the capacity of an organization to represent employees, it must have anticipated the reasonably foreseeable by-product of a low level supervisor becoming an officer. Given the statutory premise, there is

3/ Absent certain exceptions recited in the statute which are not pertinent here.

clearly no basis for the conclusion that simply by elevating a supervisor member to the status of officer, the organization's right to represent is nullified. We find that, notwithstanding Miss Brizzi's dual functions, Council No. 5 is an employee representative within the meaning of the statute. The conclusion is limited to the right of an employee organization in the circumstances described and no inference is intended as to what rights an individual or an employer may have.

The remaining exceptions contest the unit recommendations of the Hearing Officer as well as various underlying findings of fact.

Local 25 disputes the Hearing Officer's finding that members of the dredge crew are not craft employees and contends that this determination conflicts with the previous definition of craft employees used by the Commission. Thorough examination of the record does not substantiate either contention. We adopt the Hearing Officer's findings and, for the reasons cited, his conclusion that dredge crewmen are not craft employees. Local 25 contends, however, that even if found to be non-craft the dredge crews constitute a separate appropriate unit, raising the principal issue of what unit or units would be appropriate for the representation of blue collar employees of the County. Locals 25 and 84 urge basically the same considerations as support for their respective unit contentions, i.e., minimal contact or interchange with other employees, separate supervision, distinctive principal functions (dredging, road repair), promotion from within the ranks of the employee groups involved, a single headquarters location to which the employees report. In support of the broader county-wide unit are the following considerations. A centralized Personnel Department which performs all hiring and which establishes standards for filling vacancies, uniform personnel policies established pursuant to Civil Service, uniform fringe benefits (vacations, sick leave, hospitalization and medical coverage), a 40 hour week for blue collar employees, similarity of skills and basic functions within certain job titles regardless of departmental assignment or location, and in general the connotations that derive from the descriptive term "blue collar", such as manual work, skill of a level less than craft, which provide a common denominator that distinguishes this group from white collar, technical, craft etc.

The Commission is of the opinion that the Hearing Officer has correctly assessed the problem and that the consideration favoring a county-wide blue collar unit are substantial indicators of common interest whereas the opposing set of considerations tends to focus on a particular job and its immediate circumstances with little weight given to the more significant elements of employment which these jobs have in common with other blue collar jobs. We therefore adopt the Hearing Officer's findings and recommendation that the county-wide unit be found appropriate and that the petitions of Local 25 and Local 84 be dismissed on the ground that the units sought are inappropriate.

While the Commission concurs with the exceptions that "the record demonstrates that all employees of Bergen County operate under the same fringe benefits whether blue collar, white collar or supervisory personnel", the real import of this fact does not render the blue collar

unit "inappropriate." Rather it demonstrates that a unit not petitioned for herein might also be construed as appropriate with the above fact a consideration. This question is not before the Commission and does not warrant further investigation.

Accordingly, the Commission finds:

1. Bergen County Board of Chosen Freeholders is a public employer within the meaning of the Act.
2. Local 25, Marine Division, International Union of Operating Engineers, AFL-CIO; Local Union No. 84, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America; and Bergen County Civil Service Association, Council No. 5 are employee representatives within the meaning of the Act.
3. The Employer declines to recognize Locals 25 and 84 and Council No. 5 as representatives of certain of its employees. Questions of representation therefore exist and the matter is properly before the Commission.
4. The petitions of Local 25 and Local 84 seek units inappropriate for purposes of collective negotiations and are therefore dismissed.
5. The appropriate unit is: "All blue collar employees employed by the County of Bergen including foremen and employees in the following departments: General Services (including Buildings and Grounds and the Garage), Sheriff's Office, County Police Department; Shade Tree Commission, Department of Public Works, Mosquito Commission, Sanitary Landfill, Public Safety Education, County Jail, and Child Welfare Department; but excluding all other Bergen County employees, policemen, supervisors within the meaning of the Act and all employees of Bergen Pines County Hospital.
6. The Commission directs that a secret-ballot election shall be conducted among the employees in the unit found appropriate. The election shall be conducted as soon as possible but no later than thirty (30) days from the date set forth below.

Those eligible to vote are employees in the unit set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily laid off, including those in military service. Employees must appear in person at the polls in order to be eligible to vote. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by the Local Union No. 84, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, 4/ Bergen County Civil Service Association, Council No. 5 or neither.

The majority representative shall be determined by a majority of the valid ballots cast.

4/ Since Local 84 has a 10% showing of interest in the county-wide unit, it will be permitted to participate in the election directed.

The election directed herein shall be conducted in accordance with the provisions of the Commission's Rules and Regulations and Statement of Procedure.

BY ORDER OF THE COMMISSION

A handwritten signature in cursive script that reads "Charles H. Parcels". The signature is written in black ink and is positioned above a horizontal line.

Charles H. Parcels
Acting Chairman

DATED: June 21, 1972
Trenton, New Jersey

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BERGEN COUNTY BOARD OF CHOSEN FREEHOLDERS
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LOCAL 25, MARINE DIVISION,
INTERNATIONAL UNION OF
OPERATING ENGINEERS, AFL-CIO

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LOCAL UNION NO. 84, AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFERS, WAREHOUSEMEN, AND HELPERS OF
AMERICA 1/

Docket No. RO-103

Petitioner

APPEARANCES:

Edwin C. Eastwood, Jr., Esquire for
the Public Employer

Seymour Cohen, Esquire for
Council No. 5

David Solomon, Esquire, for
Local 25

Edward A. Cohen, Esquire for
Local 84

REPORT AND RECOMMENDATIONS OF HEARING OFFICER

Pursuant to a Notice of Hearing, dated July 7, 1970, to resolve a question concerning representation of certain employees in Bergen County, hearings were held on July 23, 1970, September 3, 1970 and September 11, 1970, October 5, 1970, October 7, 1970 and October 14, 1970 before Hearing Officer Sally Parker. The Undersigned Hearing Officer was substituted

1/ The petition was amended at the hearing to correctly reflect the name of this employee representative.

herein to issue a report and recommendations by order of the Executive Director. Petitions seeking to represent certain employees of Bergen County in separate units claimed to be appropriate were filed as follows: Local Union No. 84, affiliated with International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America, hereinafter Local 84, on March 16, 1970; Local 25, Marine Division, International Union of Operating Engineers, AFL-CIO, hereinafter Local 25, on March 30, 1970; and Bergen County Civil Service Association, Council No. 5, hereinafter Council No. 5, on April 15, 1970. Thereafter, an Order Consolidating Cases, dated July 7, 1970, was issued and hearings were held on the aforementioned dates. At these hearings all parties were given an opportunity to call, examine and cross-examine witnesses, to present evidence, to argue orally and to file briefs. The public employer, Local 25 jointly with Local 84 filed briefs herein.

The Hearing Officer has carefully considered the entire record, the exhibits and the briefs filed and makes the following findings of fact and recommendations:

- I. The Bergen County Board of Chosen Freeholders, hereinafter the Freeholders, is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, hereinafter the Act.
- II. Local 25 and Local 84 were stipulated to be employee representatives within the meaning of the Act. However, Local 25 and Local 84 challenged any stipulation that Council No. 5 was an employee representative within the meaning of the Act, arguing that this organization was public employer dominated because of the alleged conflict of interest of its President who was also Supervisor of the Child Welfare Department in Bergen County. Let us deal with this contention at the outset.
- III. EMPLOYEE REPRESENTATIVE

N.J.S.A. 34:13A-3(e) defines employee representative as follows:
 ...the term 'representative' is not limited to individuals but shall include labor organizations, and individual representatives need not themselves be employed by, and the labor organization serving as a representative need not be limited in membership to the employees of, the employer whose employees are represented. This term shall include any organization public employee, group of public employees, or public employee association to act on its behalf and represent it or them.

With the foregoing definition in mind let us review the facts herein.

The Bergen County Superintendent of Child Welfare Department, Louise R. Brizzi, at the time this matter was heard was also President of Council No. 5, a post she held for approximately the past 4 and one-half years. The record reveals that her primary responsibility is the supervision of the operations of the Conklin Child Welfare Home of Bergen County.

The personnel in question for our purposes who work under Mrs. Brizzi consist of approximately 30 employees, to wit: 3 maintenance men, 2 food service workers, 2 laundry workers and the remaining are child supervisors. In Bergen County the Superintendent reports directly to the Freeholder in charge of child welfare. The record reveals that Mrs. Brizzi cannot hire, fire or discipline, nor effectively recommend the same. Her authority should be likened to that discussed in Board of Education of West Orange v. Wilton, 57 N.J. 404 (1971) wherein a high echelon supervisor was excluded from a unit of low echelon supervisors based on conflicts of interest in the duties and responsibilities of the former over the latter. To include Mrs. Brizzi in a unit with the people she supervises would create a substantial actual or potential "conflict of interest" in a Wilton context and consequently she would be excluded from any unit herein claimed to be appropriate.

Concerning the activities of Council No. 5, the record reveals that this organization has been in existence for approximately 27 years. Council No. 5 had no collective negotiating agreements with the Freeholders, rather their representation of employees consisted of meeting and conferring at public meetings with the Freeholders to discuss salary increases and general improvement in working conditions. Complaints or grievances of their members were discussed at general meetings of Council No. 5. The undersigned respectfully submits that the record is silent as to any activities of the public employer insofar as alleged domination of Council No. 5 is concerned. There is no evidence that the Freeholders sponsored, controlled or dominated Council No. 5. In fact, the testimony is otherwise.

It is respectfully recommended that Council No. 5 be found to be an employee representative within the meaning of the broad definition of the Act, quoted above. The sum and substance of the argument of Local 84 and Local 25 is that Council No. 5 per se is dominated by the Freeholders because one of its supervisors is President thereof. The record is barren of any proof whatsoever that Mrs. Brizzi was the alter ego of the employer in the representation of employees in Bergen County. It must be remembered that before the passage of the Act the membership in associations throughout the state were composed of supervisory and non-supervisory employees. It would be extremely unfair to deny Council No. 5 a right to be heard herein, especially in view of its large number of employee members, due to a situation which existed prior to the Act and which was never before contemplated. The foregoing recommendation in no way establishes the fact that Council No. 5 be permitted to represent supervisors and non-supervisors in Bergen County in the same unit. On the contrary, the record clearly establishes no established practice or prior agreement which could permit the above groups to be represented in one negotiating unit. In summary, the undersigned does not make any recommendation concerning the question of having supervisors as officers in an employee organization which represents non-supervisors; nor is any suggestion made as to the propriety of the same. The Hearing Officer recommends that the facts do not establish a dominated employee representative and that Council No. 5 be permitted to participate in this proceeding.

IV. UNITS CLAIMED TO BE APPROPRIATE

Local 25 petitioned for a unit of all Dredgemen employed by the County of Bergen excluding all other employees, the Dredge Master, managerial executives, professional and office clerical employees, all other craft employees, supervisors within the meaning of the Act and policemen. 2/

Local 84 claims to be appropriate, a unit of all Road, Highway, Bridge and Maintenance employees, including truck drivers, laborers, asphalt rakers and workers, equipment operators, and heavy equipment operators employed by the County of Bergen, excluding all other employees, managerial executives, professional, office clerical and craft employees, policemen, supervisors within the meaning of the Act and dredgemen. 3/

Council No. 5 and the Freeholders claim to be appropriate a unit of all "blue collar" employees employed by the County of Bergen including employees in the following departments: General Services, including Buildings and Grounds and the Garage; Sheriff's Office; County Police Department; Shade Tree Commission; Department of Public Works; Mosquito Commission; Sanitary Landfill; Public Safety Education; County Jail and Child Welfare Department; but excluding all other employees, managerial executives, professional, office clerical and craft employees, policemen, supervisors within the meaning of the Act and all employees of the Bergen Pines County Hospital. 4/

V. APPROPRIATE UNIT

Concerning the unit of Dredgemen petitioned for by Local 25, the record reveals that there are two dredge crews working shifts from 6 a.m. to 2 p.m. and 1 p.m. to 9 p.m. and each crew consists of three (3) Dredge Laborers, one (1) Dredge Mechanic, one (1) Dredge Leverman and one (1) Dredge Mate. The supervisor of these employees is the Dredge Master or Captain. Dredging is part of the **Operations Division** in the Department of Public Works in Bergen County. The Dredge Laborer is essentially a non-skilled job that involves putting pipe together. The Dredge Mechanic services and repairs the diesel engines on the dredge. The Dredge Leverman is responsible for operation of the levers which control the amount of material brought up from the creek-bed during dredging. The Dredge Mate handles the pontoons primarily and works to keep the dredge running.

The record reveals that the crew on a dredge perform the physical tasks involved in dredging. The Dredge Laborer is hired without prior experience and is given what amounts to on the job training. There is no formal apprenticeship program, just familiarity with the dredging operation. The Dredge Mechanic must have knowledge of engines especially diesel engines in order to repair and service them. The Dredge Mate's position requires a knowledge of the dredging operation. The Dredge Master is the person with the most knowledge of dredging.

2/ The petition was amended at the hearing to correctly reflect the inclusions and exclusions in the unit claimed to be appropriate.

3/ Ibid.

4/ Ibid.

According to the testimony, there has been limited interchange to wit: a Dredge Laborer was transferred to the Road Department as a laborer; the Dredge Mechanic was transferred from the Road Department as a Heavy Equipment Mechanic to the Dredge. There is very little contact between dredge employees and other county employees; however, there have been limited instances wherein the dredge crew performed work for the Sanitary Landfill Division and work was performed by the Road Department for the dredging operation.

Local 25 argues that the employees of the dredge crew are craft employees and as such are entitled to have the option of whether to be included with non-craft employees pursuant to N.J.S.A. 34:13A-6(d). Alternatively, notwithstanding a finding of non-craft status, Local 25 contends that dredgemen constitute an appropriate unit unto themselves for purposes of collective negotiations. Local 84 supports this contention and seeks to exclude the dredge crew from its proposed unit. The Freeholders and Council No. 5 argue that dredgemen are neither craft employees nor an appropriate unit in view of a broader community of interest with other Bergen County "blue collar" employees.

The Commission has defined craft employees as a distinct and homogeneous group of skilled journeymen craftsmen, working as such, together with their apprentices and/or helpers, under their own supervision, who possess a kind and degree of skill, which is normally acquired only by undergoing an apprenticeship or comparable training. 5/ Based on an application of the facts herein to the craft definition, the undersigned respectfully submits that these dredgemen are not craft employees. Their work is essentially physical without the requisite skill of a craftsman. The employees acquire a knowledge of their respective jobs by working at their assigned tasks. The key man concerning dredging is the Dredge Master who possess all the knowledge and experience. However he is excluded from this unit based on substantial actual or potential conflicts of interest as discussed in Wilton, supra.

The next issue is whether the dredgemen constitute an appropriate unit among themselves. Resolution of this problem will be treated in conjunction with the recommendations concerning the broader units which will be discussed hereafter.

The unit claimed to be appropriate by Local 84 consists of the various work crews who maintain the roads and bridges in Bergen County. The Freeholders and Council No. 5 contend that this unit is inappropriate in that there exists a broader community of interest among blue collar employees which would embrace these road work crews.

In terms of hierarchy with regards to the road employees, the County of Bergen has reorganized its prior public works functions into an over all department of Public Works. 6/ It consists of three Divisions, to wit: Administration, Engineering and Operations. The road crews comprise

5/ P.E.R.C. No. 19, p.3.

6/ Exhibit PE-2 contains a chart of the organizational structure of the Department.

the greater portion of the functions of the Operations Division which are: bridge operation, maintenance construction, training construction, traffic maintenance, and the Dredge. The Supervisor of Roads supervises the entire Operations Division. The Engineering Division is concerned with design, planning, specifications, electric operations, and traffic engineering and studies. The County Engineer is the lead of this division. The Administration Division is supervised by the Supervisor of Administrative Services who is responsible for budgeting, finance, awarding contracts, inventory, purchasing and personnel in the entire Department of Public Works. There is another division which has not been de jure included in the reorganization by the Freeholders; however, de facto the Sanitary Landfill Division or Refuse Disposal which includes the Mosquito Commission is included in the Department of Public Works and is supervised by its Director.

The numerous classifications petitioned for by Local 84 with the exception of the dredgemen are recited on pages 505 and 506 of the record and involve approximately 75 county employees. The Freeholders and Council No. 5 argue that the road employees have classifications similar to employees of other departments and perform similar tasks as other "blue collar" employees in Bergen County and therefore, a unit comprised of either road or public works employees is inappropriate.

The record reveals that other departments in Bergen County have the same or similar classifications as the employees in the road department. All departments and sub-divisions operate through a centralized personnel office which hires in accordance with Civil Service Laws, rules and regulations. The procedure is centralized to fill vacancies in Bergen County. Job openings are filled in accordance with Civil Service examination procedures. The testimony is clear that there is a consistent employment policy to promote employees from within the departments to higher positions in the county provided they qualify under Civil Service regulations. The record establishes that all so called "blue collar" employees in Bergen County including the road crews operate under the same fringe benefits such as vacations, sick leave, and hospitalization coverage.

Concerning actual work assignments, the record establishes that there are the same or similar job duties being performed by other county employees as the road department employees. For example, there are truck drivers on the road crews and also there are truck drivers in Buildings and Grounds, in the Central Garage, in Sanitary Landfill and in the Mosquito Commission. In addition the classification equipment operator can be found not only in the road department but also in Sanitary Landfill, the Police Academy and Mosquito Commission. Also there are laborers in Buildings and Grounds, Sanitary Landfill and the Mosquito Commission as well as the road department. The same applies to maintenance repairmen

who work in all county departments including Buildings and Grounds, Police Department, Child Welfare, Mosquito Commission and County Jail.

Interchange of employees is very limited in Bergen County although there is testimony that the classified positions within each department could be interchangeable insofar as the actual duties performed. There have been a few instances, for example, wherein the dredge crew has worked for Sanitary Landfill and road crew employees have temporarily been assigned to do a specific job for another department in their related fields. Let us now examine the applicable law concerning the appropriateness of the units petitioned for by Local 84 and Council No. 5.

N.J.S.A. 34:13A-5.3 provides in part: "The negotiating unit shall be defined with due regard for the community of interest among the employees concerned..." The Commission must decide in each instance which unit of employees is appropriate for collective negotiations pursuant to N.J.S.A. 34:13A-6(d). The Commission in two recent decisions, P.E.R.C. No. 50 and No. 58, has decided either directly or in dicta that community of interest with regard to the scope of collective negotiating units will be county-wide in scope. In P.E.R.C. No. 58, Board of Chosen Freeholders of the County of Burlington et. als., The Commission dismissed petitions involving blue collar employees at one or both county hospitals and stated: "The Commission concludes, under all the circumstances, that the interest of the blue-collar employees of the hospital or hospitals are so closely related to the interests of other county employees as to submerge their separate interests." (at page 5) The Commission in a prior decision, P.E.R.C. No. 50, has decided the issue of scope of a negotiating unit in favor of state-wide units. The factors considered in appropriateness of county-wide or state-wide units were outlined as follows:

The same reasons supporting the state-wide approach compel the rejection of more restricted units. The administrative make-up of the Employer; the concentration, at the highest level, of responsibility for policy and authority to regulate and implement the most significant aspects of labor relations; the obligation implicit in the concept of Civil Service to insure equality of employment opportunity and uniformity of treatment once employed, and in consequence of that obligation, the basic consistency of terms and conditions of employment throughout the state for employees engaged in essentially like functions - and for certain terms such as fringe benefits, a consistency regardless of function; for all these reasons units limited to individual institutions, departments or subdivisions thereof can scarcely be appropriate for purposes of collective negotiations. No doubt, a kind of community of interest can be said to exist among blue 7/ collar employees at a single institution if for no other reason than because they perform similar duties at one location under the direction of a local administrator. But that does not negate the possibility of a stronger, broader and higher level of common interest which threads through various administrative units and which derives from the fact that employee terms and conditions in greatest measure are established by a central authority superior to the local administrator, in councils to which he is a stranger and in response to conditions and requirements that transcend the parochial. This "possibility" is, in fact, essentially the case here. To establish units which ignore

this more substantial community of interest would, in effect, be an attempt to reform the administrative behavior of the Employer. One of the basic arguments advanced in support of separate institutional units is that local authority can effectively respond to the demands of a majority representative. Whether he can or not is almost academic in view of the fact that traditionally the principal terms and conditions of employment have been established outside the sphere of his authority and influence... Unit determination should not be the vehicle for attempted reform. Community of interest measures conditions as they are, not as they might be.

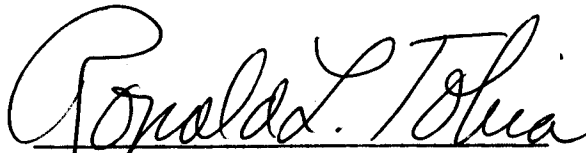
Based on the foregoing recitation of recent decisions, the Hearing Officer recommends that the county-wide approach be adopted for blue collar employees in Bergen County. The facts clearly fit the criteria established by the Commission concerning the scope of a negotiating unit. The record indicates that a community of interest has been established for all blue collar employees of the County of Bergen. Accordingly, the undersigned recommends that a unit of all blue collar employees employed by the County of Bergen be deemed appropriate and the other petitions of Local 25 and Local 84 be dismissed accordingly.

Concerning the issue of whether foremen, assistant foremen and the general foremen do not hire, fire, discipline, nor effectively recommend the same. Primarily their job consists in general work supervision and could be classified as "working foremen" and, hence, not supervisors within the meaning of the Act. Consequently, the undersigned respectfully recommends that foremen be included in the unit with other blue collar employees.

VI. RECOMMENDATIONS

Based upon the above findings it is hereby recommended that an election be directed among the employees in a unit described of all "blue collar" employees employed by the County of Bergen including foremen and employees employed in the following departments: General Services (including Buildings and Grounds and the Garage); Sheriff's Office; County Police Department; Shade Tree Commission; Department of Public Works; Mosquito Commission; Sanitary handfill; Public Safety Education, County Jail; and Child Welfare Department; but excluding all other Bergen County employees, managerial executives, professional, office clerical and craft employees, policemen, supervisors within the meaning of the Act and all employees of Bergen Pines County Hospital. The election is to determine whether these aforementioned employees wish to be represented for the purposes of collective negotiations and should be conducted in accordance with the Rules and Regulations of the Commission.

RESPECTFULLY SUBMITTED



Ronald L. Tobia
Hearing Officer

DATED: September 10, 1971
Trenton, New Jersey