

E.D. NO. 76-37

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF LAWNSIDE,
Public Employer,

-and-

Docket No. RO-76-80

PATROLMEN'S BARGAINING ASSOCIA-
TION,

Petitioner.

BOROUGH OF LAWNSIDE,
Public Employer,

-and-

Docket No. RO-76-92

SUPERIOR OFFICERS' BARGAINING
ASSOCIATION,

Petitioner.

SYNOPSIS

In the absence of substantial and material disputed factual issues, the Executive Director directs elections in two units, one of patrolmen and public safety officers and the other of sergeants and lieutenants, to determine whether or not those employees desire to be represented for purposes of collective negotiations by the Patrolmen's Bargaining Association and the Superior Officers' Bargaining Association, respectively.

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Appearances:

For the Public Employer, Joseph Tomaselli, Esq.

For the Petitioners, Arthur Batoff, Esq.

DECISION AND DIRECTION OF ELECTIONS

On November 20, 1975 and December 29, 1975, respectively, timely petitions for Certification of Public Employee Representative, later supported by adequate showings of interest, were filed with the Public Employment Relations Commission by the Patrolmen's Bargaining Association (the "P.B.A."), Docket No. RO-76-80, and the Superior Officers' Bargaining Association, (the "S.O.B.A."), Docket No. RO-76-92, of the Borough of Lawnside. The P.B.A. seeks a unit of approximately five (5) Patrolmen and Public Safety Officers employed by the Borough of Lawnside. The S.O.B.A. requests a unit of approximately four (4) Police Officers holding the rank of Sergeant and above employed by the Borough

of Lawnside. The undersigned has caused investigations to be conducted into the matters and allegations set forth in the petitions in order to determine the facts. All parties have been advised of their obligation under Rule Section 19:11-1.12, and have been afforded an opportunity thereunder, to present to the undersigned documentary and other evidence, as well as statements of position, relating to the petitions. On the basis of the administrative investigation herein, the undersigned finds and determines as follows:

1. The Borough of Lawnside is a public employer within the meaning of the New Jersey Employer-Employee Relations Act, as amended, and is subject to its provisions.

2. The Patrolmen's Bargaining Association and the Superior Officers' Bargaining Association are employee representatives within the meaning of the Act and are subject to its provisions.

3. The Mayor of Lawnside, in response to the undersigned's investigation, stated the Borough's position with regard to the above-captioned matters in letters received January 26, 1976. In these letters the Borough consented to secret ballot elections to be conducted by the Commission in the proposed units. Thereafter, the respective petitions were joined for further processing in accordance with the Commission's Rules and they are hereby consolidated for purposes of the instant decision.

Following receipt of the Borough's letter described

above, the Commission received a letter of clarification from the S.O.B.A. on January 27, 1976, which more clearly described the unit it sought, as including all Superior Officers, i.e., Sergeants and Lieutenants, but excluding the Chief of Police.

Subsequently, on January 30, 1976, in a telephonic conversation with the staff member assigned, the Administrative Aide to the Mayor and the Borough Council informed the staff member that it was the intent of the Mayor and Council to negotiate only with permanent employees in the unit proposed by the P.B.A., and not with all employees whose names and job classifications had been listed in an earlier submission. This contention was affirmed and clarified by letter to the Commission dated January 30, 1976 signed by the Borough Clerk.

An exchange of written and telephonic conversations concerning both petitions culminated in an informal conference with the parties and the staff member assigned on March 8, 1976. The result of this conference was informal agreement by the parties on all issues except the inclusion in the proposed P.B.A. unit of one employee holding the title of Public Safety Officer, Temporary. The parties did, however, request that the two matters be handled simultaneously and therefore no further action was taken at that time concerning the S.O.B.A. petition.

The P.B.A. seeks the inclusion of the disputed title in the proposed unit of Patrol Officers and Public Safety Officers. The employee in question is appointed on a month to month basis by the Borough Council. The employee, while generally employed

by the Borough in some capacity over the past several years, sometimes serves as a Public Safety Officer.

4. On May 5, 1976, the undersigned, in separate letters, notified the parties that, on the basis of the investigations to date, it appeared that the petitions were timely and that valid questions concerning the representation of public employees existed in prima facie appropriate units. With respect to the P.B.A. petition, it was noted that the issue of the inclusion of one employee, in an otherwise agreed upon unit, does not constitute a substantial factual issue. The undersigned stated his intention, absent additional evidence, of directing an election pursuant to Rule Section 19:11-1.12(b)(3) in the proposed unit. The disputed employee would be entitled to vote subject to challenge. The parties were advised of several methods provided by the Commission's Rules for an ultimate determination of the status of the disputed title, whether or not the challenged ballot, assuming the employee appears to vote, is determinative of the outcome of the election.

The letter concerning the S.O.B.A. petition stated that as it appeared that no substantial and material factual issues had been placed in dispute, the undersigned intended to direct an election in the unit therein described, in accordance with Rule Section 19:11-1.12(b)(3).

The parties were afforded seven (7) days from the date of the letters to proffer any supplementary evidence or statements of position relevant to the petitions. To date, no party has

submitted any additional evidence or statements of position and no communications have been received by the undersigned.

5. Accordingly, the undersigned finds that the petitions in Docket Nos. RO-76-80 and RO-76-92 were timely filed and that valid questions concerning the representation status of public employees exist in prima facie appropriate units. The Borough of Lawnside has declined to consent to secret ballot elections to determine whether the petitioned for Borough employees desire to be represented for the purposes of collective negotiations by the petitioning employee organizations. No contentions have been advanced to the contrary, although the parties have been afforded an opportunity to do so. The undersigned finds that the disposition of these matters is properly based upon the administrative investigation herein, it appearing that there are no substantial or material factual issues in dispute which may more appropriately be resolved after hearings. Therefore, the undersigned shall direct elections in the following appropriate units pursuant to Rule Section 19:11-1.12.

In the matter of Docket No. RO-76-80, the undersigned shall direct an election in the following appropriate unit: "All Patrolmen (Women) and Public Safety Officers employed by the Police Department of the Borough of Lawnside; excluding Supervisory Employees within the meaning of the Act, Managerial Executives, Professional and Craft Employees, Confidential Employees, Clerical Employees, the Chief of Police, and all other employees

of the Borough of Lawnside." With respect to this unit, the employee holding the title of Public Safety Officer, Temporary may vote subject to challenge. Those eligible to vote shall vote on whether or not they desire to be represented for the purposes of collective negotiations by the Patrolmen's Bargaining Association.

With respect to Docket No. RO-76-92, the undersigned shall direct an election in the following appropriate unit: "All Superior Officers including Sergeants and Lieutenants employed by the Police Department of the Borough of Lawnside; excluding the Chief of Police, Patrolmen (Women) and Public Safety Officers, Managerial Executives, Professional and Craft Employees, Confidential Employees, Clerical Employees, Supervisors within the meaning of the Act, and all other employees of the Borough of Lawnside." Those eligible to vote shall vote on whether or not they desire to be represented for the purposes of collective negotiations by the Superior Officers' Bargaining Association.

6. The undersigned directs that the elections be conducted in the units found appropriate. The elections shall be conducted no later than thirty (30) days from the date set forth below.

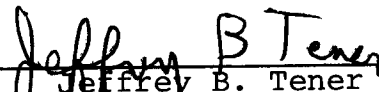
Those eligible to vote are employees set forth above who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were out ill, or on vacation, or temporarily

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.

Pursuant to Rule Section 19:11-2.7 the public employer is directed to file with the undersigned election eligibility lists, consisting of alphabetical listings of the names of all eligible voters in each unit together with their last known mailing addresses and job titles. Such lists must be received by the undersigned no later than ten (10) days prior to the date of the election. The undersigned shall make the eligibility lists immediately available to the petitioner in each matter. Failure to comply with the foregoing shall be grounds for setting aside the elections upon the filing of proper post-election objections pursuant to the Commission's Rules.

The majority representative shall be determined by a majority of the valid ballots cast in each separate unit. The elections 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 EXECUTIVE DIRECTOR



Jeffrey B. Tener
Executive Director

DATED: Trenton, New Jersey
May 25, 1976