

I. R. NO. 86-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEWARK HOUSING AND REDEVELOPMENT
AUTHORITY and SEIU, LOCAL 305,
AFL-CIO,

Respondents,

-and-

Docket No. CO-86-108

ESSEX COUNCIL NO. 1, NJCSA,

Charging Party.

SYNOPSIS

A Commission designee issues interim relief to the Charging Party, which had filed a timely Petition for Certification of Representatives during the pendency of negotiations for a successor agreement. The Respondents were restrained from executing or implementing a successor agreement or negotiating further until the Unfair Practice Charge or the Petition for Certification was resolved, whichever occurred first: Middlesex County (Roosevelt Hospital), P.E.R.C. No. 81-129, 7 NJPER 266 (1981) and Bergen County., P.E.R.C. No. 84-2, 9 NJPER 451, 458 (1983).

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INTERLOCUTORY DECISION AND ORDER

The above matter having been opened to the Public Employment Relations Commission on November 4, 1985 by Frederic M. Knapp, Esq., attorney for the Charging Party, and the Commission's named designee, Alan R. Howe, having been apprised of the contents of the Unfair Practice Charge and briefs, and that a collective negotiations agreement between the Respondents expired on March 31, 1985, and that negotiations for a successor agreement have been ongoing but no final agreement having been reached as of October 30, 1985, the day following the filing of a Petition for Certification of Representatives (RO-86-65), and that there have been no further negotiations but Respondents have reached substantial agreement; and the Charging Party having sought herein to restrain the execution, implementation or further negotiations with respect to any

agreement, pending the disposition of this Charge or the representation petition, whichever occurs first; and Gerald L. Dorf, Esq., having appeared for the Authority and Arnold S. Cohen, Esq., having appeared for SEIU on November 4, 1985, in opposition to the grant of restraints as requested; and the undersigned having considered the oral argument of counsel for the parties on November 4, 1985; and it appearing that the Charging Party has satisfied the two standards for the grant of interim relief, namely, the substantial likelihood of success on the merits as to the facts and the law, and the suffering of irreparable harm if relief is not granted, for the following reasons:

1. The Commission in Middlesex County (Roosevelt Hospital), P.E.R.C. No. 81-129, 7 NJPER 266 (1981) adopted the doctrine of the N.L.R.B. in Midwest Piping & Supply Co., Inc., 63 NLRB 1060, 17 LRRM 40 (1945) which requires an employer to remain neutral in the face of a "real question concerning representation." Middlesex was affirmed by the Commission in Bergen County., P.E.R.C. No. 84-2, 9 NJPER 451, 458 (1983).

2. The Commission in Middlesex held that the proper course for a public employer faced with a pending question concerning representation "...is not to begin, or if begun, to cease negotiations with the incumbent union until the representation issue has been properly determined..." (7 NJPER at 267).

3. The Commission in Middlesex also resolved the question of irreparable harm as to the petitioning organization as well as to the employer's employees (7 NJPER at 267).

Accordingly, it is **HEREBY ORDERED** that the Charging Party's request to enjoin the Respondents from executing or giving effect to any collective negotiations agreement reached between the Respondents, or to negotiate further, so long as the question concerning representation exists is **GRANTED**, pending the disposition of the instant Unfair Practice Charge or the resolution of the question concerning representation, by the Commission, whichever occurs first.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



Alan R. Howe
Hearing Examiner

Dated: November 4, 1985
Newark, New Jersey