

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

In the Matter of

VILLAGE OF RIDGEWOOD,

Public Employer,

-and-

COUNCIL NO. 5, NEW JERSEY  
CIVIL SERVICE ASSOCIATION,

DOCKET NO. RO-81-40

Petitioner,

-and-

SERVICE EMPLOYEES INTERNATIONAL  
UNION, AFL-CIO, LOCAL NO. 389,

Intervenor.

SYNOPSIS

The Director of Representation, on the basis of an administrative investigation, directs an election among certain employees of the Village who are currently represented by the SEIU. The Director notes the absence of substantial and material disputed factual issues and the absence of the presentation of documentation by the SEIU in support of a claim that a supervisory employee of the Village engaged in unfair practices. The SEIU had filed an unfair practice charge with the Commission regarding this claim and had urged that the representation petition be blocked during the pendency of the unfair practice proceeding.

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Appearances:

For the Public Employer  
Goodman, Stoldt & Horan, attorneys  
(Daryl S. Ury of counsel)

For the Petitioner  
Hogan & Palace, attorneys  
(Thomas Hogan of counsel)

For the Intervenor  
Rothbard, Harris & Oxfeld, attorneys  
(Barry Aisenstock of counsel)

DECISION AND DIRECTION OF ELECTION

On September 10, 1980, Council No. 5, New Jersey  
Civil Service Association ("Council 5") filed a Petition for  
Certification of Public Employee Representative with the

Public Employment Relations Commission (the "Commission"), supported by an adequate showing of interest, seeking to represent a unit of certain blue collar workers employed by the Village of Ridgewood (the "Village"). Service Employees International Union, AFL-CIO, Local 389 ("SEIU") has been granted intervenor status pursuant to N.J.A.C. 19:11-2.7 based on the submission of a current collective negotiations agreement covering the petitioned-for employees.

Pursuant to N.J.A.C. 19:11-2.6, the undersigned has caused an administrative investigation to be conducted into the matters and allegations involved in the Petition.

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 Village of Ridgewood 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 this Petition, and is subject to the provisions of the Act.

3. Council No. 5, New Jersey Civil Service Association and Service Employees International Union, AFL-CIO, Local 389 are employee representatives within the meaning of the Act and are subject to its provisions.

4. On October 8, 1980, the assigned Commission staff agent convened an informal conference among the parties. At that conference, Council 5 amended the description of the petitioned-for collective negotiations unit sought to be co-extensive with the unit represented by SEIU. <sup>1/</sup> The Village having been satisfied that the petitioned-for unit is coextensive with the existing unit, is willing to consent to a secret ballot election to be conducted by the Commission among the petitioned-for employees. Council 5 also agrees to a secret ballot election.

The SEIU, however, has orally advised the Commission that it does not agree to a secret ballot election, but rather, requests that the allegations raised in its unfair practice charge filed against the Village on October 3, 1980 (CO-81-97), be heard by the Commission prior to the further processing of the representation petition. The unfair

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<sup>1/</sup> The recognition clause in the current agreement defined the unit as: all employees of the Village of Ridgewood in the divisions of Property Maintenance, Parks, Street Services, Parking and Traffic, Central Garage, Water Pollution Control, Solid Waste and Water Utility, excluding therefrom clerical employees, managerial executives, professional and craft employees, and supervisors within the meaning of the Act.

practice charge alleges as follows:

On repeated occasions, Village of Ridgewood employer representative Kenneth Koch, within his capacity as Acting Street and Sewer Foreman in the Division of Street Services, actively solicited and obtained signed authorization cards from unit employees on behalf of Bergen Council #5, N.J.C.S.A. in violation of Section 34: 13A-5.4 of the Act.

Initially, SEIU alleged violations of N.J.S.A. 34:13A-5.4(a)(1), (2), (3), and (7), but subsequently amended the charge to delete the §(a)(3) and §(a)(7) allegations.

5. On October 29, 1980, the undersigned advised SEIU of its obligation to provide documentary evidence in support of the request that the representation petition not be processed pending the disposition of the unfair practice charge. At the same time, all parties were reminded of their obligations under N.J.A.C. 19:11-2.6 to present documentary and other evidence as well as statements of position within seven (7) days which would raise substantial and material factual issues that would warrant the convening of a representation hearing in this matter. The parties were advised that in the absence of the presentation of facts placing in dispute any substantial and material factual issues, and in the absence of documentation constituting a basis for "blocking" the instant representation matter, the undersigned would thereafter issue a decision and direction of election.

6. Other than the receipt of correspondence from the Village confirming its position in this matter, the Commission has not received any additional response to the October 29, 1980 correspondence. Accordingly, the undersigned shall direct an election among those employees described in footnote 1, supra.

Accordingly, there existing no substantial and material factual issues in dispute which may more appropriately be resolved after a hearing, the undersigned finds that the disposition of this matter is properly based upon the administrative investigation herein. Therefore, the undersigned finds that the appropriate unit for collective negotiations is: All employees of the Village of Ridgewood in the divisions of Property Maintenance, Parks, Street Services, Parking and Traffic, Central Garage, Water Pollution Control, Solid Waste and Water Utility, but excluding, clerical employees, managerial executives, professional and craft employees, and supervisors within the meaning of the Act.

Pursuant to N.J.A.C. 19:11-2.6(b)(3), the undersigned directs that an election be conducted among the employees described above. The election shall be conducted no later than thirty (30) days from the date set forth below.

Those eligible to vote are the 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 resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date.


Pursuant to N.J.A.C. 19:11-9.6, the Public Employer is directed to file with the undersigned and with Council No. 5, New Jersey Civil Service Association and Service Employees International Union, AFL-CIO, Local 389, an election eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles. In order to be timely filed, the eligibility list must be received by the undersigned no later than ten (10) days prior to the date of the election. A copy of the eligibility list shall be simultaneously filed with the Council 5 and SEIU with statement of service to the undersigned. The undersigned shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Those eligible to vote shall vote on whether or not they desire to be represented for the purpose of collective negotiations by Council No. 5, New Jersey Civil Service

Association or Service Employees International Union, AFL-CIO, Local No. 389, or neither.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election directed herein shall be conducted in accordance with the provisions of the Commission's rules.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
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Carl Kurtzman, Director

DATED: November 13, 1980  
Trenton, New Jersey