

D.R. No. 2010-8

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

In the Matter of

TOWNSHIP OF HANOVER,

Public Employer,

-and-

Docket No. RO-2010-021

TEAMSTERS LOCAL 97,
OF NEW JERSEY, I.B.T.,

Petitioner.

SYNOPSIS

The Director of Representation orders that Teamsters, Local 97 of New Jersey, I.B.T. (Local 97) be certified as the exclusive representative for all regularly employed non-supervisory blue collar employees in the department of public works and the park and recreation department of the Township of Hanover. The Township objected to the card check petition and refused to sign a stipulation of appropriate unit, asserting the unit should only include DPW employees because it was historically the represented unit. The Commission favors broad-based negotiations units rather than units structured upon departmental lines. The petitioned-for unit was consistent with the structure favored by the Commission. The petitioner complied with the card check rules and the Director certified Local 97 as the majority representative for the unit in question.

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Petitioner.

Appearances:

For the Public Employer,
Knapp, Trimboli & Prusinowski, LLC, attorneys
(Frederick Knapp, of counsel)

For the Petitioner,
Mets, Schiro & McGovern, LLP, attorneys
(James Mets, of counsel)

DECISION

On September 24, 2009, Teamsters, Local 97 of New Jersey, I.B.T. (Local 97) filed a representation petition for card check certification seeking to represent a unit of "all regular full-time employees of the department of public works, including full-time regular employees of park and recreation department" employed by the Township of Hanover (Township). The petition was accompanied by authorization cards from a majority of the petitioned-for unit employees.

On October 1, 2009, the Township wrote to us, advising that Teamsters Local 469 was the certified majority representative of

the DPW employees now included in the petitioned-for unit. Teamsters Local 469 was provided a copy of the petition and asked if it had an interest in the case. On October 9, 2009, Local 469 sent us a letter disclaiming interest in representing the DPW employees.

The Township refuses to sign a Stipulation of Appropriate Unit form, which is normally required to continue the processing of the petition.

We have conducted an administrative investigation to determine the facts. N.J.A.C. 19:1-2.2. The disposition of the petition is properly based upon our administrative investigation. No disputed substantial material facts require us to convene an evidentiary hearing. N.J.A.C. 19:11-2.2 and 2.6. Based upon the administrative investigation, I find these facts:

On September 30, 2009, we issued Notices to Employees, advising that Local 97 filed a petition for certification by card check in the petitioned-for unit. The Township certified that it posted the notices for the required ten-day period. On October 1, 2009, the Township filed a list of the petitioned-for employees. The list includes custodial employees. We have compared the submitted authorization cards with the names provided on the Township's list and determined that a majority of unit employees have signed authorization cards for Local 97.

On October 8, 2009, a Commission staff agent conducted a conference call with representatives of Local 97 and the Township

to discuss the terms of a proposed Stipulation of Appropriate Unit agreement setting forth the petitioned-for unit description. During the conference call, the Township objected to the card check petition and refused to sign a Stipulation of Appropriate Unit, asserting that the unit should include only DPW employees. Local 97 initially sought voluntary recognition from the Township for DPW employees only and that the historical unit was comprised of those employees only, excluding other non-supervisory blue collar employees.

ANALYSIS

On July 19, 2005, the Legislature amended the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, authorizing the Commission to certify a majority representative where: (a) a majority of employees in an appropriate unit who have signed authorization cards designating that organization as their negotiations representative; and (b) no other employee representative seeks to represent those employees. See N.J.A.C. 19:11-2.6(b).

The Township's argument that the unit should include only DPW employees because Local 97 initially sought voluntary recognition for only DPW employees is moot. Local 97 has filed a timely representation petition, accompanied by a sufficient number of authorization cards.

The Commission must determine in each contested instance the most appropriate collective negotiations unit. N.J.S.A. 34:13A-

5.3 and 34:13A-6.6. The Commission favors structuring negotiations units along broad-based lines and has been reluctant to find appropriate units structured along occupational or departmental lines. The New Jersey Supreme Court first articulated this policy in State v. Professional Association of N.J. Dept. of Ed., 64 N.J. 231 (1974). The Court directed that a balance must be struck between the rights of public employees to choose a collective negotiations representative and the rights of public employers not to be burdened with an undue proliferation of negotiations units. We have often rejected narrowly-defined units where a broad-based unit was available. See, e.g., Jersey City, D.R. No. 84-6, 9 NJPER 556 (¶14231 1983) (unit composed exclusively of four sanitary inspectors found inappropriately narrow); NJIT, D.R. No. 88-29, 14 NJPER 148 (¶19060 1988) (narrow unit of security guards rejected where college had consistently maintained broad-based unit structure); Wall Tp., D.R. No. 94-24, 20 NJPER 209 (¶25101 1994) (proposed unit of six or seven dispatchers inappropriate); E. Windsor Tp., P.E.R.C. No. 97-68, 23 NJPER 51 (¶28035 1996) (proposed unit of four emergency medical technicians found to be inappropriately narrow); Pennsauken Tp., D.R. No. 2000-2, 25 NJPER 398 (¶30172 1999) (proposed unit of four emergency medical technicians found to be inappropriately narrow). Cf. UMDNJ, P.E.R.C. No. 84-28, 9 NJPER 598 (¶14253 1983) (residual faculty unit found appropriate where union twice before disclaimed interest in representing

petitioned-for faculty). Affording employees who have similar titles and goals an opportunity for unified employee representation promotes labor stability because unified employee representation may permit negotiations with an already centralized and unified employer to proceed more smoothly. State of Prof. Assn.; Piscataway Twp. Bd. of Ed., P.E.R.C. No. 84-124, 10 NJPER 272 (¶15134 1984); West Milford, P.E.R.C. No. 56, NJPER Supp. 218 (¶56 1971). In this case, the petitioned-for unit is consistent with the structure favored by the Commission and Court, i.e., an appropriately broad-based and non-supervisory blue-collar unit.

The Legislature has determined that a check of an organization's authorization cards signed by a majority of employees in an appropriate unit is a lawful method to determine a majority representative. Our review of Local 97's authorization cards shows that it has submitted cards from a majority of the petitioned-for employees. The employees' signatures on the cards meets the intent of the statute and the rules. Accordingly, Local 97 is entitled to a certification based upon a card check, regardless of the Township's failure to submit a signed Stipulation of Appropriate Unit. See Passaic County Prosecutor's Office, D.R. No. 2006-15, 32 NJPER 107 (¶51 2006); Atlantic County Prosecutor's Office, D.R. No. 2007-2, 32 NJPER 264 (¶108 2006).

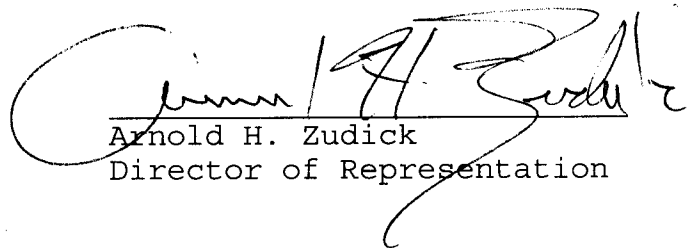
I find that the following unit is appropriate:

Included: All regularly employed non-supervisory blue collar employees in the department of public works and the parks and recreation department of the Township of Hanover.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, police employees, casual employees, and all other employees of the Township of Hanover.

ORDER

I certify Teamsters Local 97 of New Jersey, I.B.T. as the exclusive representative of the unit described above, based upon its authorization cards.^{1/}



Arnold H. Zudick
Director of Representation

DATED: October 23, 2009
Trenton, New Jersey

A request for review of this decision by the Commission may be filed pursuant to N.J.A.C. 19:11-8.1. Any request for review must comply with the requirements contained in N.J.A.C. 19:11-8.3.

Any request for review is due by November 4, 2009.

^{1/} The formal certification is attached.

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PUBLIC EMPLOYMENT RELATIONS COMMISSION**

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-and-

TEAMSTERS LOCAL 97 OF NEW JERSEY, I.B.T.,
Petitioner.

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> DOCKET NO. RO-2010-021
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**CERTIFICATION OF REPRESENTATIVE
BASED UPON AUTHORIZATION CARDS**

In accordance with the New Jersey Employer-Employee Relations Act, as amended, and the Rules of the Public Employment Relations Commission, we have conducted an investigation into the Petition for Certification filed by the above-named Petitioner. The Petitioner has demonstrated by card check that a majority of the unit employees described below have designated the Petitioner as their exclusive representative for purposes of collective negotiations, and, no other employee organization has expressed a valid interest in representing these employees.

Accordingly, **IT IS HEREBY CERTIFIED** that

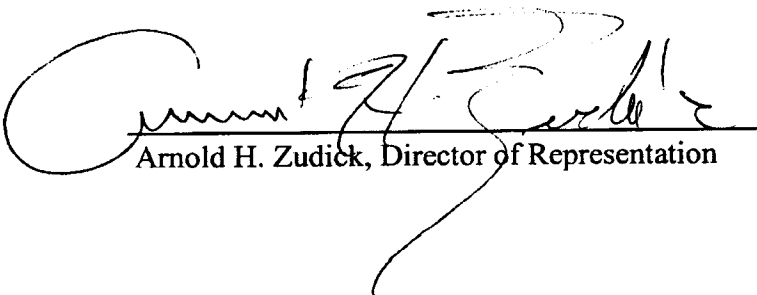
TEAMSTERS LOCAL 97 OF NEW JERSEY, I.B.T.

is now the exclusive representative of all the employees included below for the purposes of collective negotiations with respect to terms and conditions of employment. The representative is responsible for representing the interests of all unit employees without discrimination and without regard to employee organization membership. The representative and the above-named Employer shall meet at reasonable times and negotiate in good faith with respect to grievances and terms and conditions of employment as required by the Act.

UNIT: Included: All regularly employed non-supervisory blue collar employees in the department of public works and the parks and recreation department of the Township of Hanover.

Excluded: Managerial executives, confidential employees and supervisors within the meaning of the Act; craft employees, professional employees, police employees, casual employees, and all other employees of the Township of Hanover.

DATED: October 23, 2009
Trenton, New Jersey


Arnold H. Zudick, Director of Representation

Attachment:

Certification of Representative dated: October 23, 2009

In the Matter of

TOWNSHIP OF HANOVER

-and-

TEAMSTERS LOCAL 97 OF NEW JERSEY, I.B.T.

Docket No. RO-2010-021

Service on the following:

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