

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF UNION CITY,

Respondent,

-and-

Docket No. CO-H-89-78

UNION CITY EMPLOYEES ASSOCIATION,

Charging Party.

Appearances:

For the Respondent, Gerald L. Dorf, Esq.

For the Charging Party, Loccke & Correia, Esqs.
(Manuel Correia, of counsel)

DECISION AND ORDER

On September 19, 1988, the Union City Employees Association filed an unfair practice charge against the City of Union City. The charge alleges that the City violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4(a)(1), (5) and (7),^{1/} by unilaterally changing the contractual salary ranges for the purchasing agent and municipal court account clerk during successor contract negotiations.

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

On January 27, 1989, a Complaint and Notice of Hearing issued.

On March 29 and May 11, 1989, Hearing Examiner Susan Wood Osborn conducted a hearing. The City did not file an Answer. Accordingly, on the Association's motion, the Hearing Examiner deemed the allegations in the Complaint to be admitted as true. N.J.A.C. 19:14-3.1. However, she denied the Association's motion for a "directed verdict" and proceeded to conduct a hearing. The parties examined witnesses and introduced exhibits. They filed post-hearing briefs by June 29, 1989.

On August 29, 1989, the Hearing Examiner issued her report and recommendations. H.E. No. 90-8, 15 NJPER ____ (¶____ 1989). She found that the City violated subsections 5.4(a)(1) and (5) when it unilaterally changed the two salary ranges. She recommended that they be restored to their appropriate levels.^{2/}

On September 19, 1989, after an extension of time, the City filed exceptions. It claims the Hearing Examiner erred by: failing to find compelling the City's need to increase the purchasing agent's starting salary; finding that the City neither advertised nor interviewed other applicants; concluding that the salary range adjustments violated the Act; and recommending that the status quo be restored. If we find a violation, the City urges, in the alternative, that we should issue an order to cease and desist and to negotiate in good faith regarding the purchasing agent. It

^{2/} The Hearing Examiner recommended dismissal of the subsection 5.4(a)(7) allegation.

concedes that restoring the status quo regarding the vacant account clerk position "could well be tolerated by all concerned."

On October 23, 1989, the Association filed an untimely reply urging adoption of the recommended decision.^{3/}

We have reviewed the record. The Hearing Examiner's findings of fact (H.E. at 2-7) are accurate. We incorporate them with this minor modification. The record is inconclusive as to whether there was a Civil Service list of qualified candidates for purchasing agent when Maloney was hired.

Initial placement on a salary guide is mandatorily negotiable. Belleville Ed. Ass'n v. Belleville Bd. of Ed., 209 N.J. Super. 93 (App. Div. 1986); see also cases cited by the Hearing Examiner, H.E. at 8. The fact that the City may have had important reasons why it needed to pay its purchasing agent more than the amount provided under the recently expired contract does not excuse the City's failure to negotiate before increasing the salary. See Sparta Bd. of Ed., P.E.R.C. No. 90-2, 15 NJPER 488 (¶20199 1989).

We reject the City's argument that this is a compensation issue that must be resolved through the parties' negotiated grievance procedure. While arbitration may have resolved this dispute, we do not consider contract repudiations or unilateral changes in terms and conditions of employment during successor negotiations to be mere breaches of contract that should be dismissed under State of New Jersey (Dept. of Human Services), P.E.R.C. No. 84-148, 10 NJPER 419 (¶15191 1984).

^{3/} Part of the delay in receipt was due to a problem with the receipt of mail.

We also reject the argument that the Association did not represent the account clerk title because it was vacant at the time. The Association represents all white and blue collar employees except those excluded by the contract's recognition clause. The account clerk is not excluded and the City had an obligation to negotiate before changing that title's salary range.

Finally, we modify the Hearing Examiner's recommendation on the remedy. We will not ordinarily order recoupment or rescission of a unilaterally granted benefit absent a union's request. The Association did not seek a specific remedy. In its exceptions, the City claims that restoration of the status quo would jeopardize its ability to retain the current purchasing agent. The Association's reply to that argument is untimely. Nevertheless, under these circumstances, we believe it most appropriate to afford the City an opportunity to remedy its violation without losing the service of its current purchasing agent. For that title, we will delay the restoration of the status quo for 45 days while the parties negotiate over salary. If no agreement is reached in that time, the salary must be returned to the previous level subject to any subsequent contractual adjustments. We otherwise adopt the Hearing Examiner's recommended remedy.^{4/}

^{4/} We agree with the Hearing Examiner that the City did not violate subsection 5.4(a)(7).

ORDER

The City of Union City is ordered to

A. Cease and desist from:

1. Interfering with, restraining or coercing its employees in the exercise of the rights guaranteed to them by the Act, particularly by failing to negotiate with the Union City Employees Association before changing the salary ranges for purchasing agent and municipal court account clerk.

2. Refusing to negotiate in good faith with the Association concerning terms and conditions of employment of employees in its unit, particularly by changing the salary ranges for purchasing agent and municipal court account clerk.

B. Take this affirmative action:

1. Return the salary range of the municipal court account clerk position to the range existing prior to the City's changes, subject to any adjustments required by any subsequent negotiated agreement.

2. After 45 days, return the salary range of the purchasing agent position to the range existing prior to the City's changes, subject to any adjustments required by any subsequent negotiated agreement and any superseding agreement negotiated within 45 days of this decision.

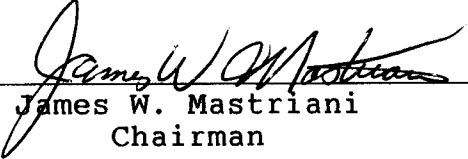
3. Negotiate with the Association concerning any proposed changes in salary ranges.

4. Post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice on forms to be provided by the

Commission shall be posted immediately upon receipt thereof and, after being signed by the Respondent's authorized representative, shall be maintained by it for at least 60 (sixty) consecutive days. Reasonable steps shall be taken to ensure that such notices are not altered, defaced or covered by other materials.

5. Notify the Chairman of the Commission within twenty (20) days of receipt what steps the Respondent has taken to comply herewith.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Johnson, Reid, Wenzler, Bertolino and Smith voted in favor of this decision. None opposed. Commissioner Ruggiero was not present.

DATED: Trenton, New Jersey
October 27, 1989
ISSUED: October 30, 1989

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify our employees that:

WE WILL cease and desist from interfering with, restraining or coercing our employees in the exercise of the rights guaranteed to them by the Act, particularly by failing to negotiate with the Union City Employees Association before changing the salary ranges for purchasing agent and municipal court account clerk.

WE WILL cease and desist from refusing to negotiate in good faith with the Association concerning terms and conditions of employment of employees in its unit, particularly by changing the salary ranges for purchasing agent and municipal court account clerk.

WE WILL return the salary range of the municipal court account clerk position to the range existing prior to the City's changes, subject to any adjustments required by any subsequent negotiated agreement.

WE WILL, after 45 days, return the salary range of the purchasing agent position to the range existing prior to the City's changes, subject to any adjustments required by any subsequent negotiated agreement and any superseding agreement negotiated within 45 days of this decision.

WE WILL negotiate with the Association concerning any proposed changes in salary ranges.

Docket No. CO-H-89-78

CITY OF UNION CITY

(Public Employer)

Dated _____

By _____

(Title)

This Notice must remain posted for 60 consecutive days from the date of posting, and must not be altered, defaced or covered by any other material.

If employees have any question concerning this Notice or compliance with its provisions, they may communicate directly with the Public Employment Relations Commission, 495 West State St., CN 429, Trenton, NJ 08625 (609) 984-7372.

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

AND IN ORDER TO EFFECTUATE THE POLICIES OF THE

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED,

We hereby notify our employees that:

WE WILL cease and desist from interfering with, restraining or coercing our employees in the exercise of the rights guaranteed to them by the Act, particularly by failing to negotiate with the Union City Employees Association before changing the salary ranges for purchasing agent and municipal court account clerk.

WE WILL cease and desist from refusing to negotiate in good faith with the Association concerning terms and conditions of employment of employees in its unit, particularly by changing the salary ranges for purchasing agent and municipal court account clerk.

WE WILL return the salary range of the municipal court account clerk position to the range existing prior to the City's changes, subject to any adjustments required by any subsequent negotiated agreement.

WE WILL, after 45 days, return the salary range of the purchasing agent position to the range existing prior to the City's changes, subject to any adjustments required by any subsequent negotiated agreement and any superseding agreement negotiated within 45 days of this decision.

WE WILL negotiate with the Association concerning any proposed changes in salary ranges.

Docket No. CO-H-89-78

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H.E. NO. 90-8

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF UNION CITY,

Respondent,

-and-

Docket No. CO-H-89-78

UNION CITY EMPLOYEES ASSOCIATION,

Charging Party.

SYNOPSIS

A Hearing Examiner of the Public Employment Relations Commission recommends that the Commission find that the City of Union City violated subsections 5.4(a)(1) and (5) of the New Jersey Employer-Employee Relations Act by unilaterally changing two existing, contractual salary ranges during negotiations for a successor contract with the Employee Association. The City unilaterally increased an existing salary range by \$9,000 to hire a new purchasing agent, and it unilaterally decreased the existing salary range of a vacant account clerk position. The Hearing Examiner recommends that the both salary ranges be restored to their contractual amounts and that the City be ordered to prospectively reduce the newly hired purchasing agent's salary to the contractual starting salary.

A Hearing Examiner's Recommended Report and Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission which reviews the Recommended Report and Decision, any exceptions thereto filed by the parties, and the record, and issues a decision which may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law.

H.E. NO. 90-8

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
CITY OF UNION CITY,

Respondent,

-and-

Docket No. CO-H-89-78

UNION CITY EMPLOYEES ASSOCIATION,

Charging Party.

Appearances:

For the Respondent
Gerald L. Dorf, Esq.

For the Charging Party
Loccke & Correia, Esqs.
(Manuel Correia, of counsel)

HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

On September 19, 1988, the Union City Employees Association ("Association") filed an Unfair Practice Charge with the Public Employment Relations Commission ("Commission") alleging that the City of Union City ("City") violated subsections 5.4(a)(1), (5) and (7) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act")^{1/} by unilaterally changing the

^{1/} These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act; (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative; (7) Violating any of the rules and regulations established by the Commission."

contractual salary ranges for the purchasing agent and account clerk during negotiations for a successor agreement.

A Complaint and Notice of Hearing issued on January 27, 1989. The City did not file an Answer to the Complaint. At the opening of the hearing on March 29, the Association moved to deem the allegations in the Complaint as true,^{2/} and sought a directed verdict. As the charge's allegations standing alone were insufficient to establish a violation of subsection 5.4 (a)(5),^{3/} I granted the Association's motion to deem the charge's allegations true but required the parties to go forward with the hearing.

At hearings conducted on March 29 and May 11, 1989, the parties submitted exhibits and examined witnesses.^{4/} Both parties filed post-hearing briefs by June 29, 1989.

Based upon the entire record I make the following:

Findings of Fact

1. The Association represents blue collar and white collar City employees. The City and the Association were parties to a

^{2/} N.J.A.C. 19:14-3.1 provides: "Respondent shall, within ten days of service from the Complaint, file an answer thereto...All allegations in the complaint, if no answer is filed...shall be deemed to be admitted as true and shall be so found by the Commission."

^{3/} The charge stated that the City "introduced and/or adopted" ordinances changing salary ranges.

^{4/} The transcripts of these hearing shall be referred to as "TA" and "TB" respectively. Jointly submitted exhibits will be referred to as "J"; Charging Party's exhibits will be referred to as "CP"; and Respondent's exhibits will be referred to as "R".

collective agreement (J-1) covering City employees for the period January 1, 1986 through December 31, 1987. Article 26 requires maintenance of a salary increment plan and incorporates by reference a salary schedule for each City job classification. The most recent salary schedule is set forth in the City's salary ordinance, effective January 1, 1987 (CP-2). That schedule provides a salary range of \$21,000 to \$38,016 for the purchasing agent and a salary range of \$19,250 to \$24,000 for the municipal court account clerk.

Article 26 also provides,

Any employee hereinafter hired by the City of Union City shall be paid an amount equal to, but not to exceed the lowest limit of the salary range for the position in which he or she is hired. In no event shall any new, permanent or temporary employee receive a salary greater than a current employee in the position and classification for which he or she has been hired. (J-1, p.16)

2. Article 32, Section 2 of the 1986-87 agreement provides,

In the event a new Agreement has not been entered into at the time of the expiration of this Agreement, the terms and provisions of this Agreement shall carry over and be binding on the parties until such time as a new Agreement is negotiated and adopted by the parties (J-1,p.24).

3. The parties were in negotiations for the 1988-1989 collective agreement from February through November, 1988. Those negotiations resulted in percentage increases for the entire guide, in addition to the contractual increments. During negotiations, the City proposed an increase in the rent regulation officer's salary range because his assistant's range was higher. The Association agreed. Range adjustments for other titles were not proposed (TB-4; TB6-TB8; TB-54).

Purchasing Agent

4. When Robert Menendez became Mayor in May, 1986, he learned the City was in financial distress. He found weak accounting and administrative networks and a substantially underappropriated budget. He appointed a financial transition team, which recommended layoffs (R-1; TB12-TB13).

5. The State Division of Local Government Services required the City to develop a fiscal recovery program. The City sought assistance from the Rutgers University Graduate Department of Public Administration ("Rutgers") to study the City's financial problems and recommend solutions. In December, 1987 and May, 1988, Rutgers issued reports recommending, among other things, that the City centralize purchasing authority and control under its Public Affairs Department, which the Mayor directs (R-4; R-5; TB19-20). The City followed that recommendation by passing an ordinance on June 1, 1988, transferring the purchasing agent to the Public Affairs Department (CP-10; TB20).

The May, 1988 Rutgers report also recommended that the City hire a professionally trained, experienced and preferably, State-certified purchasing agent. It suggested that, to attract such a candidate, the City should increase the position's salary range to \$25,000 to \$42,000. (R-5; 3T35).

6. The City employed a series of purchasing agents after Menendez became Mayor. In June 26, 1986, the City replaced Purchasing Agent Mario Moderero, with Rogue Pisano. Pisano held the

position until June 27, 1987. In August, 1987, the City provisionally appointed William Meehan, who held the job until July, 1988. Pisano and Meehan were both appointed at the minimum starting salary (CP-7; CP-8; TB25; TB40-TB42).

7. In June, 1988, Kathleen Maloney, a member of Menendez's political organization, applied for the purchasing agent position. Menendez reviewed Maloney's credentials. She had a degree in business administration and purchasing experience both in private industry and with the Union City Board of Education. Menendez felt Maloney had the professional training and experience the Rutgers report suggested to professionalize the purchasing operations. To attract Maloney from her position with the Board of Education, the City offered her a starting salary of \$30,000 to take the position. She agreed to obtain State certification as a purchasing agent, and the City agreed to underwrite the cost of State certification courses (R-7; CP-11; TB26; TB29; TB32; TB46; TB51).

8. Although a 1988 civil service list of qualified candidates existed for the purchasing agent position, the City neither advertised the position, nor interviewed other applicants (TB45).

9. To appoint Maloney to the position, Menendez sent a "CS-6" personnel form to the City's Supervisor of Accounts, Robert McKechnie. McKechnie is also the Association President. Maloney's CS-6 form identified her salary range as \$21,000 to \$38,016 (as provided by the salary ordinance), but set her starting salary at

\$30,000. A member of Menendez's staff told him McKechnie had a problem with the form. Menendez called McKechnie to learn what the problem was. McKechnie told Menendez that the \$30,000 starting salary was beyond the existing salary ordinance. Menendez replied that the City would amend the ordinance. McKechnie told Menendez he "may have a problem with that [salary], but would not stop [the appointment]." (TB33; TB52).

10. On July 27, McKechnie filed a grievance (CP-6) under Article 26, Section 3 concerning Maloney's appointment at a starting salary above the salary range minimum. Neither the Association nor the City sought to negotiate an adjustment in the purchasing agent's salary range (TB33-TB34).

On August 18, the City passed an ordinance changing the purchasing agent salary range to \$30,000 to \$38,016 (CP-4; TB43).

The Account Clerk

11. The 1987 City ordinance (CP-2) establishing salary range schedules provided a salary range for the municipal court account clerk of \$19,250 to \$24,000. Mary Pohlman was appointed to that position in 1987 at the minimum salary of \$19,250. As a result of a discussion with Pohlman, the Court Administrator asked the City to upgrade Pohlman's title, because he felt her duties were more substantial than an account clerk's.^{5/} On September 7, 1988, the City passed an ordinance (CP-3) decreasing the salary range for the

^{5/} The progression of titles in the series are: account clerk, senior account clerk, and principal account clerk (TB68).

municipal court account clerk to \$12,500 to \$19,500. It also established a range for principal account clerk of \$14,000 to \$26,136. On September 9, the City provisionally appointed Pohlman as principal account clerk, but maintained her previous salary of \$19,250 (R-10; TB61-TB68).

As a result of a State Department of Personnel desk audit of Pohlman's position, the City reclassified her in November to a senior account clerk, but continued her salary at \$19,250. On December 20, 1988, the City set a salary range for the senior account clerk, apparently a new position, at \$13,000 to \$24,000 (R-11; R-13).^{6/} The record does not reveal that any employee was appointed to the account clerk position.

ANALYSIS

The City violated subsections 5.4(a)(1) and (5) of the Act by changing the salary ranges of purchasing agent and municipal court account clerk without first negotiating the changes with the Association.

Our Supreme Court has recognized that compensation is a negotiable term and condition of employment. Woodstown-Pilesgrove Reg. Ed. Assn., 88 N.J. 582 (1980). Galloway Tp. Bd. of Ed. v. Galloway Tp. Ed. Assn., 78 N.J. 25, 49, 4 NJPER 334 (¶4163 1978); Bd. of Ed. of Englewood v. Englewood Teachers Ass'n, 64 N.J. 1

^{6/} These events occurred after the charge was filed and shed no light on the City's decision to decrease the account clerk salary range in September.

(1973). In applying these cases, the Commission has long held that initial salary placement is a mandatorily negotiable subject. See Somerset Cty, PERC No. 86-136, 12 NJPER 453 (¶17171 1986); North Brunswick Board of Education, P.E.R.C. No. 86-29, 11 NJPER 583 (¶16203 1985); Fairview Bd. of Ed., P.E.R.C. No. 84-59, 10 NJPER 10 (¶15006 1983); Oakland Bd. of Ed., P.E.R.C. No. 82-125, 8 NJPER 378 (¶13173 1982); Deptford Bd. of Ed., P.E.R.C. No. 81-78, 7 NJPER 35 (¶12015 1980); Eastern Camden Bd. of Ed., P.E.R.C. No. 80-158, 6 NJPER 348 (¶11174 1980); Dennis Tp. Bd. of Ed., P.E.R.C. No. 80-157, 6 NJPER 334 (¶11167 1980); New Jersey College of Medicine and Dentistry, P.E.R.C. No. 80-127, 6 NJPER 213 (¶11104 1980). The Appellate Division has affirmed that position. Belleville Bd. of Ed., 209 N.J. Super 93 (App. Div. 1986).

During negotiations for a successor contract, an employer ordinarily must maintain existing terms and conditions of employment. Galloway Tp. Bd. of Ed., 78 N.J. 25 (1978). There, the Supreme Court stated,

A settled principle of private sector labor law under the LMRA is that an employer's unilateral alteration of the prevailing terms and conditions of employment during the course of collective bargaining concerning the affected conditions constitutes an unlawful refusal to bargain, such unilateral action is a circumvention of the statutory duty to bargain....Our Legislature has recognized that the unilateral imposition of working conditions is the antithesis of its goal that the terms and conditions of public employment be established through bilateral negotiations and, to the extent possible, agreement between the public employer and the majority representative of its employees. (78 N.J. at 49)

Here, the City was required both by law and by the terms of its 1987-88 contract to maintain the existing terms and conditions of employment, including the salary ranges, during negotiations for the successor agreement. The purchasing agent and the municipal court account clerk positions were included in the Association's unit, and the existing salary ranges for each were covered by the parties contract. The City unilaterally changed those salary ranges.

Contrary to the explicit language of Article 26.3 of the contract, it hired Maloney as purchasing agent at a starting salary other than the contractual minimum. When the Association objected, the City then unilaterally adjusted the purchasing agent salary range by increasing the minimum from \$21,000 to \$30,000.

The City argues that it had a legitimate business need to increase the purchasing agent's starting salary to \$30,000. I find that there was nothing compelling about this need that would have prevented negotiations with the Association. The City knew in May, 1988, that the Rutgers report had recommended increasing the position's salary to attract better qualified candidates. The parties were in negotiations for a successor contract from February through November 1988. The City could have proposed an adjustment in the purchasing agent salary range as it did with the rent control officer. It did not seek to negotiate such an adjustment.

The City contends that it was forced to alter the purchasing agent's starting salary to attract a qualified candidate. The evidence does not support such a finding. The City

sought no other candidates for the position. While the City has a managerial right to select the applicant it deems best qualified for the position, it may not unilaterally restructure the salary range without negotiations.

With regard to the municipal court account clerk, it is clear that the range had been \$19,250 to \$24,000, and the City unilaterally decreased the range to \$12,500 to \$19,500. The City's rationale for altering the account clerk's range is not clear. The City argues that it set the senior account clerk's range at a level that "fit" between the account clerk range and the principal account clerk range. The Association has not asserted any impropriety regarding the senior account clerk range. Although it appears that the senior account clerk range was also set without negotiations with the Association, this change was not made until December, 1988, three months after the charge was filed.

Moreover, it is of no consequence that the account clerk position was apparently vacant when the City changed its range. The Association clearly represents the position, even if no incumbent is in the title. Galloway Tp. Bd. of Ed., 78 N.J. 1, 20 (1978).

Finally, the City argues that the charge should be dismissed because the Association did not demand negotiations about the salary range changes. That argument is the very antithesis of the law. When a collective agreement sets a particular term and condition of employment, the employer has the burden to initiate negotiations with the majority representative over a proposed change

before implementing the change. New Brunswick Bd.Ed., P.E.R.C. No. 78-47, 4 NJPER 84, 85 (¶4040 1978). Failure to engage in such negotiations violates the Act.

In sum, the City's changes in salary ranges of the purchasing agent and the municipal court account clerk without first negotiating the changes with the Association was a repudiation of the parties' collective agreement and a violation of subsection 5.4 (a)(5), and derivatively, 5.4 (a)(1) of the Act.

Based upon the record I make the following:

Conclusions of Law

1. The City violated subsection 5.4(a)(5) and derivatively 5.4(a)(1) of the Act by failing to negotiate with the Association prior to changing the salary ranges of the Purchasing Agent and the Account Clerk.

2. The City did not violate subsection 5.4(a)(7) of the Act.

Recommended Order

I recommend that the Commission ORDER:

A. That the City cease and desist from:

Interfering with, restraining or coercing its employees in the exercise of the rights guaranteed to them by the Act, particularly by failing to negotiate with the Association prior to changing the salary ranges of the purchasing agent and the municipal court account clerk.

B. That the Town take the following affirmative action:

1. Restore the status quo ante^{7/} by returning the salary ranges of the purchasing agent and municipal court account clerk positions to their respective salary ranges existing prior to the City's changes, adjusted for the across-the-board negotiated percentage increases as contained in the parties' 1988-89 contract.


2. Immediately adjust Purchasing Agent Kathleen Maloney's current salary to the appropriate incremental step on the purchasing agent salary range as ordered to be adjusted above.

3. Negotiate with the Association concerning any proposed changes in the salary ranges.

4. Post in all places where notices to employees are customarily posted, copies of the attached notice marked as Appendix "A." Copies of such notice on forms to be provided by the Commission shall be posted immediately upon receipt thereof and, after being signed by the Respondent's authorized representative, shall be maintained by it for at least sixty (60) consecutive days. Reasonable steps shall be taken to ensure that such notices are not altered, defaced or covered by other materials.

^{7/} The Association did not make a request for any specific remedy. In the absence of a specific request, the appropriate make whole remedy for such a violation is to restore the status quo so the parties can negotiate prospectively over what salary range is appropriate for this position. See South Orange-Maplewood Bd. of Ed., P.E.R.C. No. 89-1, 14 NJPER 498 (¶19209 1988). I recommend this remedy.

5. Notify the Chairman of the Commission within twenty (20) days of receipt what steps the Respondent has taken to comply herewith.



Susan Wood Osborn
Hearing Examiner

Dated: August 29, 1989
Trenton, New Jersey

NOTICE TO ALL EMPLOYEES

PURSUANT TO

AN ORDER OF THE

PUBLIC EMPLOYMENT RELATIONS COMMISSION

and in order to effectuate the policies of the

NEW JERSEY EMPLOYER-EMPLOYEE RELATIONS ACT,

AS AMENDED

We hereby notify our employees that:

WE WILL cease and desist from interfering with, restraining or coercing our employees in the exercise of the rights guaranteed to them by the Act, particularly by changing salary ranges of unit employees without first negotiating such changes with the Union City Employees Association.

WE WILL restore the purchasing agent and municipal court account clerk positions to their respective salary ranges existing prior to the City's unilateral changes, adjusted for the across-the-board negotiated percentage increases as contained in the parties 1988-89 contract.

WE WILL immediately adjust Purchasing Agent Kathleen Maloney's current salary to the appropriate incremental step on the purchasing agent salary range as ordered to be adjusted above.

WE WILL negotiate with the Association concerning any proposed changes in the salary ranges.

Docket No. CO-H-89-78

Union City
(Public Employer)

Dated _____

By _____
(Title)

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