P.E.R.C. NO. 2003-22

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MORRIS,

Respondent,

-and- Docket No. CO-H-2000-74

MORRIS COUNCIL NO. 6, NJCSA,
IFPTE, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission finds that the County of Morris violated the New Jersey Employer-Employee Relations Act when it refused to provide Morris Council No. 6, NJCSA, IFPTE, AFL-CIO with a list of names and home addresses of all employees in the negotiations unit represented by Council 6. The Commission concludes that the union has a right under the New Jersey Employer-Employee Relations Act to request and receive a list of home addresses and that no executive order or other statute prohibits such disclosure.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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-and- Docket No. CO-H-2000-74

MORRIS COUNCIL NO. 6, NJCSA,
IFPTE, AFL-CIO,

Charging Party.

Appearances:

For the Respondent, Courter, Kobert, Laufer & Cohen attorneys (Stephen E. Trimboli, of counsel)

For the Charging Party, Fox & Fox, attorneys (Craig S. Gumpel, of counsel)

DECISION

On October 5, 1999, Morris Council No. 6, NJCSA, IFPTE, AFL-CIO filed an unfair practice charge against the County of Morris. Count I of the charge alleges, in part, that the County violated N.J.S.A. 5.4a(1) and (5)[1/] of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it refused to provide Council 6 with a list of names and home

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1/ These provisions 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."

addresses of all employees in the negotiations unit represented by Council 6.[2/] Council 6 seeks this list to communicate with all unit employees and to fulfill its statutory duty to represent them fairly.[3/]

On March 28, 2000, a Complaint and Notice of Hearing issued. The County filed an Answer admitting that it had refused to provide the list, but asserting that doing so would violate Executive Order No. 11 and its employees' privacy rights.

On August 9, 2000, Hearing Examiner Charles A. Tadduni conducted a hearing. The parties examined witnesses, introduced exhibits, and filed post-hearing briefs.

On March 26, 2002, the Hearing Examiner issued his report. H.E. No. 2002-12, 28 NJPER 189 (¶33068 2002). He concluded that the County had violated 5.4a(1) and (5) and he recommended that the Commission order the County to provide Council 6 with a list of unit employees and addresses. He relied on Burlington Cty., P.E.R.C. No. 88-101, 14 NJPER 327 (¶19121 1988), aff'd NJPER Supp.2d 208 (¶183 App. Div. 1989), and other cases; and he rejected the employer's reliance on Executive Order

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2/ The parties settled Count II and several other allegations in Count I.

3/ While this case was pending before us, another case involving the same employer and a different majority representative arose presenting the same issue. County of Morris and Communications Workers of America, Local 1040, AFL-CIO, Dkt. No. CO-2002-39. The parties in that case have just recently stipulated the facts and submitted briefs. It was therefore not possible to decide that case today.

No. 11 (1974) and its argument that the record showed particular needs not to disclose the addresses of unit employees in the Prosecutor's Office, the Youth Detention Center, the Youth Center, the Office of Aging, and the Office of Nutrition.

On April 24, 2002, the County filed exceptions. It argues that recent cases and the record support its decision not to provide the requested list. It argues in particular that United States Dept. of Defense v. FLRA, 510 U.S. 487 (1994), and other post-Burlington cases warrant withholding addresses; Executive Order No. 11 (1974) justifies withholding; it has a constitutional right to regulate access to its property; the Hearing Examiner erred in relying on hearsay evidence to find problems with the interoffice mailing system, and the Hearing Examiner erred in finding that it refused to negotiate in good faith.

On May 17, 2002, Council 6 filed a response. It argues that the Hearing Examiner's findings of fact are supported by the record and are not based on hearsay and that his conclusions of law are well-supported by precedent.

On July 12, 2002, the County submitted a letter asking us to consider Executive Order No. 21 issued on July 8, 2002. It asserts that paragraph 3 of this order bars disclosure of home addresses and that it has met its obligation under the Act by

being willing to negotiate over other ways to accommodate Council No. 6's need to communicate with the employees it represents.4/

On August 29, 2002, Council 6 submitted a letter noting that the Governor had issued Executive Order No. 26. This order rescinded and replaced paragraph 3 of Executive Order No. 21.

We have reviewed the record. The Hearing Examiner's findings of fact nos. 1-7 and 9-39 are supported by the record and are not contested by exceptions. We adopt and incorporate them without further discussion.

The County does object to finding no. 8. That finding states:

> Council 6 has encountered a number of serious problems with the County interoffice mail system. Council 6 receives complaints from unit employees that their mail (from Council 6 and County offices) frequently arrives late -- days, even weeks late, especially at outlying locations. Most troublesome, however, is that Council 6 frequently receives mail delivered to its box which has been opened somewhere during handling. Further, unit members complain to Council 6 that their interoffice mail has been opened and read. It is an ongoing problem. The County has no policy prohibiting one employee from opening the interoffice mail of another employee.

The County asserts that this finding is based solely on the hearsay testimony of Council 6's president and thus must be rejected. Council 6 responds that the finding is properly based on the president's first-hand knowledge that she had received

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4/ The County has also requested oral argument. We deny that request as the case has been fully briefed.

complaints and was properly limited to the fact that complaints were received.

We adopt finding no. 8. Council 6's president personally experienced instances when interoffice mail addressed to her had been opened (T30) and she personally received complaints from unit members that interoffice mail had not been received or had been delayed (T30-T31). Employees in the road department often complained to Council 6's president about these problems (T31). Finding no. 8 is thus grounded in the president's personal knowledge about her own mail and about complaints she has received. No competent, countervailing evidence was offered to show that the interoffice mail system operated without the types of problems cited.

We also supplement finding no. 8. Sometime before 1994, the president complained to the County about the problems Council 6 had experienced, but Council 6 did not file a formal grievance or make a contract proposal or raise the issue during labor-management committee meetings (T61-T62, T70-T72). The County's Director of Labor Relations was not aware of Council 6's problems with interoffice mail before the hearing (T74).

We now analyze whether Council 6 has a right under the New Jersey Employer-Employee Relations Act to request and receive a list of home addresses of unit employees and whether any other source of law prohibits disclosure. We will break our analysis down into these questions. First, do Burlington Cty. and other

Commission precedents support disclosure? Second, do other cases decided since Burlington prohibit disclosure? Third, does any statute or executive order bar disclosure? Fourth, does the County have a constitutional right to withhold home addresses? And fifth, does the record support withholding home addresses of any employees for special security reasons?

A. Burlington and Other Precedents

Section 5.3 of the Act empowers an employee organization selected by a majority of employees in a negotiations unit to be the exclusive representative of all the employees in that unit. Lullo v. IAFF, 55 N.J. 409 (1970). With that power goes a duty: the majority representative must represent all negotiations unit employees fairly, regardless of whether an employee is a union member. D'Arrigo v. New Jersey State Bd. of Mediation, 119 N.J. 74 (1990).

Section 5.3 also requires public employers and majority representatives to negotiate with each other in good faith over terms and conditions of employment. An employer violating that duty commits an independent unfair practice under 5.4a(5) and a derivative unfair practice under 5.4a(1).

The Act's unfair practice provisions parallel their counterparts in the National Labor Relations Act ("NLRA") governing private sector labor relations. 29 U.S.C. §158 and §160. Precedents under the unfair practice provisions of the federal act may guide us in interpreting our Act. Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 159 n.2

(1978); Galloway Tp. Bd. of Ed. v. Galloway Tp. Ass'n of Ed. Secretaries, 78 N.J. 1 (1978).

In the private sector, the mutual duty to negotiate in good faith imposes a specific duty on both employers and majority representatives to provide each other with requested information relevant to contract proposals and grievances. See generally NLRB v. Truitt Mfg. Co., 351 U.S. 149 (1956); NLRB v. Acme Industrial Co., 385 U.S. 432 (1967); Hardin and Higgins, The Developing Labor Law, 856-870 (4th ed. 2001). In particular, the employer must provide non-confidential information requested by the majority representative so that it can carry out its representational duties. Developing Labor Law at 858. The Commission has followed these precedents. See, e.g, State of New Jersey (OER), P.E.R.C. No. 88-27, 13 NJPER 752 (¶18284 1987), recon. den. P.E.R.C. No. 88-45, 13 NJPER 841 (¶18323 1987), aff'd NJPER Supp.2d 198 (¶177 App. Div. 1988); Shrewsbury Bd. of Ed., P.E.R.C. No. 81-119, 7 NJPER 235 (¶12105 1981).

In the private sector, employers have repeatedly been required to provide majority representatives, upon request, with the home addresses of the employees they represent. See, e.g., NLRB v. CJC Holdings, 97 F.3d 114 (5th Cir. 1996); United Aircraft Corp. v. NLRB, 434 F.2d 1198 (2nd Cir. 1970); Prudential Ins. Co. v. NLRB, 412 F.2d 77 (2nd Cir. 1969), cert. den. 396 U.S. 928 (1969); Standard Oil Co. of California v. NLRB, 399 F.2d 639 (9th Cir. 1968); Bryant and Stratton Co., 323 NLRB 410 (1997). The

Commission has likewise ordered disclosure of home addresses and the Appellate Division has affirmed its order. Burlington Cty. Two paragraphs in our analysis in Burlington bear quotation:

> We agree with the Hearing Examiner that the County was obligated to release the names and home addresses of representation fee payers. An employer must supply information that may help a majority representative carry out its statutory duties. State of New Jersey (Office of Employee Relations), P.E.R.C. No. 88-27, 13 NJPER 752 (¶18284 1987), app. pending App. Div. Dkt. No. A-2047-87T7, Shrewsbury Bd. of Ed., P.E.R.C. No. 81-119, 7 NJPER 235, 236 (¶12105 1981). Names and home addresses are relevant to enable the majority representative to communicate with the employees it represents. As the Court held in Prudential Ins. Co. of America v. NLRB,. . . "it seems manifest beyond dispute that the union cannot discharge its obligation unless it is able to communicate with those in whose behalf it acts." [Id. at 328]
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> We consider all the circumstances of a case in deciding the extent of an employer's duty to supply information, including an employee's privacy interest, the union's need for the information and the employer's business reasons for not supplying requested information. Here the scales tip to the union's needs. The union requires the information to comply with its obligation to notify employees under the representation fee statute, N.J.A.C. 19:17-3.3, as well as to communicate with the employees it represents. Further, there is no indication that the union will use this information for any improper purpose. The intrusion on employees' privacy is minimal: they will receive some mail which will ensure their constitutional right to information concerning representation fee payments and will receive other mail which they may elect not to read. Therefore, under these circumstances, the public interest in collective negotiations and satisfactory performance of the union's statutory duty outweighs the employee's privacy interests in not disclosing a home address. [Id. at 329]

The County asserts that Burlington should be confined to the fact that it involved a request for the home addresses of representation fee payers. Our analysis was not so limited, nor are the private sector precedents underpinning Burlington. What is critical is the majority representative's ability to communicate with all employees encompassed within its statutory duty of fair representation, not simply its ability to communicate with employees covered by a representation fee clause. Prudential makes this clear.5/ So does CJC Holdings. We add that confining a union's communications to the workplace may cause communications to be less private than represented employees may

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5/ We reject the argument that Prudential did not recognize the relevance of home addresses generally and should be limited to its facts. Prudential states:

> The kind of information requested by the Union in this case has an even more fundamental relevance than that considered presumptively relevant. The latter is needed by the union in order to bargain intelligently on specific issues of concern to the employees. But data without which a union cannot even communicate with employees whom it represents is, by its very nature, fundamental to the entire expanse of a union's relationship with the employees. [Id. at 84]

While the record in Prudential demonstrated extreme difficulties in union-employee communications, the record in this case also establishes significant difficulties. Those difficulties include lack of confidentiality in the workplace, problems with the interoffice mail system, problems with calling employees at their work stations, lack of bulletin board or e-mail access, multiple work sites and shifts, lack of stewards at some work sites, and low attendance at union meetings.

desire, increase the possibility of employer interference with such communications, and interfere with workplace operations.

Burlington and the other cited precedents provide strong authority for requiring the County to supply the home addresses of the support staff represented by Council 6. But the employer argues that subsequent cases undercut Burlington. We will consider the relevance of those cases before deciding whether to reaffirm Burlington's principles.

B. Post-Burlington Cases

The Commission issued its Burlington decision in 1988 and the Appellate Division affirmed that decision in 1989. Since then, the NLRB and reviewing courts have continued to require employers to provide majority representatives with the home addresses of negotiations unit employees under the NLRA. CJC Holdings; Bryant; Stratton. The County argues, however, that three cases decided under other statutory schemes make disclosure of home addresses improper under our Act and the NLRA.

The first case is Doe v. Poritz, 142 N.J. 1 (1995). In that case, our Supreme Court rejected a sex offender's claim that his privacy interests made unconstitutional a notification law requiring disclosure of his home address and personal information. Id. at 77-91. Finding that disclosure of that information might expose a sex offender to harassment, the Court concluded that disclosure implicated a privacy interest. Id. at 82-84, 87. Nevertheless, the Court found that the information requested was not deserving of a particularly high degree of

protection -- in contrast to psychiatric or medical information -- and that the state interest in public disclosure outweighed the plaintiff's interest in privacy. The notification law thus passed constitutional muster under both the United States and New Jersey constitutions. Id. at 87-91.

Doe v. Poritz does not warrant overruling Burlington. Disclosure of home addresses does implicate a privacy interest of County employees, but that privacy interest is even less significant then the diminished expectation of privacy in Poritz because the record does not show any danger of harassment and because the information is not being released to the public at large. And as in Poritz, there is a public interest in disclosure that outweighs the diminished expectation of privacy. That is the public interest in allowing a majority representative to communicate with the employees it represents through a channel that ensures confidentiality.

The second case is United States Dept. of Defense v. Federal Labor Relations Authority, 510 U.S. 487 (1994) ("DOD"). In DOD, the United States Supreme Court held that a majority representative of federal employees was not entitled to a list of employee home addresses under the Federal Service Labor-Management Relations Statute, 5 U.S.C. §7101-7135, because disclosure was not required under the Freedom of Information Act, 5 U.S.C. §552, and was therefore prohibited by the Privacy Act, 5 U.S.C. §552a. This holding rests on an interpretation of interlocking federal statutes and is not binding on state agencies and state courts

interpreting provisions and policies of state statutes. To understand DOD, one must track through an array of federal statutes, beginning with the federal labor relations statute which expressly subordinated the duty to supply information under that statute to prohibitions on disclosure in other statutes without any consideration of reasons for disclosure under the labor relations statute.6/ We need not repeat that tracking since the New Jersey statutory framework is so different and must be analyzed apart from the federal laws. We do note, however, that the Court held that an individual's privacy interest in not having a home address disclosed was "far from insignificant" given that a requirement of disclosure in that case would necessarily have entitled the public at large, including commercial advertisers and solicitors, to receive the same information under the federal Freedom of Information Act. 510 U.S. at 501. That point is a dispositive one under the complex of federal statutes, but not in a case like this one where New Jersey laws govern and disclosure will be limited to the majority representative rather than the public at large.

The third case is Sheet Metal Workers Int. Ass'n v. United States Dept. of Veteran Affairs, 135 F.3d 891 (3d Cir.

6/ The balancing test applied in DOD was not the same as is applied to disclosure of assertedly confidential information under private sector labor law. Detroit Edison Co. v. NLRB, 440 U.S. 301 (1989). Under DOD, unlike Detroit Edison, other federal statutes precluded considering labor relations concerns and policies as part of that balance.

1998). In that case, the Court rejected a demand for release of employee home addresses under the federal Freedom of Information Act. The Court followed the interpretation of federal statutes called for by DOD, an interpretation which does not govern the duty to disclose information under our Act or address the interrelationship of duties under our Act and possible prohibitions under other sources of New Jersey law. Sheet Metal Workers, like DOD and unlike the instant case, also involved the issue of whether the public at large, rather than simply a single entity, would be entitled to receive the home addresses.

C. New Jersey Statutes and Executive Orders

The County asserts that Executive Order No. 11 (1974) justified non-disclosure and that Executive Order No. 21 (2002) compels non-disclosure. Council 6 disagrees and adds that Executive Order No. 26 (2002) permits rather than prohibits disclosure. We will now consider these three orders.

These orders all address the subject of exemptions from New Jersey's Right To Know Law, N.J.S.A. 47:1A-2. That law has been revised recently to broaden public access to government records and to narrow exemptions.

Before the recent amendment, N.J.S.A. 47:1A-2 provided, in part:

> Except as otherwise provided in this act or by any executive order of the Governor, all records which are required by law to be made, maintained or kept on file . . . shall . . . be deemed to be public records.

Governor Byrne issued Executive Order No. 11 to address public access to personnel records under that law. That order stated, in part:

> Except as otherwise provided by law or when essential to the performance of official duties or when authorized by a person in interest, an instrumentality of government shall not disclose to anyone other than a person duly authorized by this State or the United States to inspect such information in connection with his official duties, personnel or pension records of an individual, except that the following shall be public:
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> a. An individual's name, title, position, salary, payroll record, length of service in the instrumentality of government and in the government, date of separation from government service and the reason therefor; and the amount and type of pension he is receiving.

The Open Public Records Act ("OPRA") substantially changed the Right To Know Law. N.J.S.A. 47:1A-10 now deals with personnel records. That section provides:

> Notwithstanding the provisions of P.L. 1963, c. 73 (C. 47:1A-1 et seq.) or any other law to the contrary, the personnel or pension records of any individual in the possession of a public agency, including but not limited to records relating to any grievance filed by or against an individual, shall not be considered a government record and shall not be made available for public access, except that:
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> an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefor, and the amount and type of any pension received shall be a government record; [and]
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> personnel or pension records of any individual shall be accessible when required to be disclosed by another law, when disclosure is

> essential to the performance of official duties of a person duly authorized by this state or the United States, or when authorized by an individual in interest. . . .

Another new section created a Privacy Study Commission to make a report within 18 months of OPRA's effective date. That study commission will review the "current and proposed means used for the collection, processing, use and dissemination of information by State and local government agencies" in light of the need for openness in government and the duty of a public agency to safeguard the privacy rights of individuals. N.J.S.A. 47:1A-1, as amended, specifies that:

> a public agency must safeguard a citizen's personal information with which it has been entrusted when disclosure thereof would violate the citizen's reasonable expectation of privacy.

On July 8, 2002, the Governor issued Executive Order No. 21. Paragraph 3 provided:

> In order to effectuate the legislative directive that a public governmental agency has the responsibility and the obligation to safeguard from public access a citizen's personal information with which it has been entrusted, an individual's home address and home telephone number, as well as his or her social security number, shall not be disclosed by a public agency at any level of government to anyone other than a person duly authorized by this State or the United States, except as otherwise provided by law, when essential to the performance of official duties, or when authorized by a person in interest. Moreover, no public agency shall disclose the resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing, and thereafter in the case of unsuccessful candidates.

On August 13, 2002, the Governor issued Executive Order No. 26. That order rescinds paragraph 3 and replaces it with this new paragraph 3:

> No public agency shall disclose the resumes, applications for employment or other information concerning job applicants while a recruitment search is ongoing. The resumes of successful candidates shall be disclosed once the successful candidate is hired. The resumes of unsuccessful candidates may be disclosed after the search has been concluded and the position has been filled, but only where the unsuccessful candidate has consented to such disclosure.

Paragraph 5 of this latest order charges the Privacy Study Commission with studying the issue of "whether and to what extent the home address and home telephone number of citizens shall be made publicly available by public agencies" and with reporting back to the Governor and the Legislature within six months.

We do not believe that the disclosure of employee home addresses to a majority representative violates any of these executive orders or the statutes they implement. Unlike the federal labor relations statute construed in DOD, disclosures required by the Employer-Employee Relations Act are not subordinated to the privacy provisions of other statutes. To the contrary, the provisions of the New Jersey statutes and executive orders dealing with personnel records permit disclosure when otherwise provided by law. Compare Valley Programs, Inc., 300 NLRB No. 39, 135 LRRM 1208 (1990) (disclosure of home addresses required under NLRA despite claim disclosure prohibited by state law). Our Act is a law providing otherwise for the limited

purpose of disclosure to a majority representative. It may be that an employee's home address is not a "public record" disclosable to any member of the public upon demand. Nevertheless, an address may still be disclosed on a limited basis for a proper purpose pursuant to a specific statute, as is the case here.

D. The New Jersey Constitution

The County asserts that it has a constitutional right to impose reasonable restrictions on access to government property. But it does not specify a provision of the New Jersey Constitution conferring such a right upon a governmental entity. The cases it relies upon are inapt. United States Postal Service v. Council of Greenburgh Civic Ass'n, 453 U.S. 114 (1981); Perry Ed. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37 (1983); and Cornelius v. NAACP Legal Defense Ed. Fund, 473 U.S. 788 (1985), all recognize that the constitutional rights of citizens under the First Amendment do not override reasonable governmental restrictions on access to a non-traditional public forum. But none of these cases grants a constitutional right to a governmental entity to determine whether it will disclose information it deems non-public. That Council 6 may not have a constitutional right to demand access to a record does not mean that the County itself has a constitutional right to withhold that record. Disclosure can still be required if another source of law -- such as our Act -- compels disclosure. The County's control over its records must yield to the Legislature's directives.

E. Prosecutor's Office Employees and Juvenile Detention Officers

Even if disclosure of the home addresses of some employees is required by our Act, the County asserts that we should not order disclosure of the addresses of negotiations unit employees who work in the Prosecutor's Office or as juvenile detention officers. We disagree for the reasons stated in the Hearing Examiner's comprehensive findings (Nos. 23-28) and analysis (H.E. at 28-34). Unlike the drug informant and striker replacement cases cited in that analysis, there is no likely danger that the majority representative will use the home addresses to harass or retaliate against employees. Nor do we see any likely danger that the majority representative will divulge the home addresses to criminal offenders or juvenile detainees or that the duties of the negotiations unit employees would make them targets of retaliation if that happened. United Aircraft.

F. The Remedial Order

The County's last argument is that the Hearing Examiner erred in recommending that it be ordered to stop "refusing to negotiate in good faith with Morris Council 6 concerning terms and conditions of employment, particularly by not disclosing relevant information." H.E. at 38. The County notes that it has been willing to negotiate over alternatives to releasing addresses. That is true, but it is not a defense to a refusal to provide non-confidential information relevant to carrying out representational duties. See Curtiss-Wright Corp. v. NLRB, 347

F.2d 61 (3d Cir. 1965); contrast Detroit Edison Co. v. NLRB, 440 U.S. 301 (1979) (psychological test results were confidential). A refusal to supply such information violates the duty to negotiate in good faith so an order can logically refer to that duty.

ORDER

The County of Morris is ordered to:

A. Cease and desist from:

1. Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by the Act, in particular by refusing to provide Morris Council No. 6, NJCSA, IFPTE, AFL-CIO with the names and home addresses of all employees in its negotiations unit.

2. Refusing to negotiate in good faith with Morris Council No. 6, NJCSA, IFPTE, AFL-CIO, in particular by refusing to provide it with the names and home addresses of all employees in its negotiations unit.

B. Take this action:

1. Provide Council 6 within 20 days with a list of all negotiations unit employees and their home addresses.

2. 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.

3. Notify the Chair of the Commission within thirty (30) days of receipt what steps the Respondent has taken to comply herewith.

BY ORDER OF THE COMMISSION

Millicent A. Wasell
Chair

Chair Wasell, Commissioners Katz, Mastriani, McGlynn, Ricci and Sandman voted in favor of this decision. Commissioner Buchanan abstained from consideration.

DATED: September 26, 2002
Trenton, New Jersey
ISSUED: September 27, 2002

NOTICE TO 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 employees in the exercise of the rights guaranteed to them by the Act, in particular by refusing to provide Morris Council No. 6, NJCSA, IFPTE, AFL-CIO with the names and home addresses of all employees in its negotiations unit.

WE WILL cease and desist from refusing to negotiate in good faith with Morris Council No. 6, NJCSA, IFPTE, AFL-CIO, in particular by refusing to provide it with the names and home addresses of all employees in its negotiations unit.

WE WILL provide Council No. 6 within 20 days with a list of all negotiations unit employees and their home addresses.

CO-H-2000-74
Docket No.

COUNTY OF MORRIS
(Public Employer)

Date: _____ By: _____

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 Street, P.O. Box 429, Trenton, NJ 08625-0429 (609) 984-7372

APPENDIX "A"

d:\percdocs\notice 10/93

H.E. NO. 2002-12

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

In the Matter of

COUNTY OF MORRIS,

Respondent,

-and- Docket No. CO-H-2000-74

MORRIS COUNCIL NO. 6, NJCSA,
IFPTE, AFL-CIO,

Charging Party.

SYNOPSIS

A Hearing Examiner recommends finding that Morris County violated sections 5.4a(1) and a(5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., when it refused to provide a list of unit employee names and addresses to Morris Council No. 6, NJCSA, IFPTE, AFL-CIO. The Hearing Examiner found that employee addresses are presumptively relevant and necessary to the performance of the union's statutory obligation to properly represent all unit employees. The Hearing Examiner concluded that Executive Order No. 11 does not prohibit disclosure of employee addresses sought in accordance with the Act by a statutory majority representative. The Hearing Examiner found that the record does not indicate how or why disclosing addresses of unit employees would create a risk sufficient to justify withholding employee addresses. The Hearing Examiner found that the County failed to establish any affirmative defense which, on balance, warranted the withholding of addresses.

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. If no exceptions are filed, the recommended decision shall become a final decision unless the Chair or such other Commission designee notifies the parties within 45 days after receipt of the recommended decision that the Commission will consider the matter further.

H.E. NO. 2002-12

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

In the Matter of

COUNTY OF MORRIS,

Respondent,

-and- Docket No. CO-H-2000-74

MORRIS COUNCIL NO. 6, NJCSA,
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Appearances:

For the Respondent, Courter, Kobert, Laufer & Cohen, attorneys
(Stephen E. Trimboli, of counsel)

For the Charging Party, Fox & Fox, attorneys
(Craig S. Gumpel, of counsel)

HEARING EXAMINER'S REPORT AND RECOMMENDED DECISION

Morris Council No. 6, NJCSA, IFPTE, AFL-CIO (Council 6) filed an unfair practice charge with the Public Employment Relations Commission on October 5, 1999 (C-1).1/ The charge alleges that the Respondent, Morris County, violated sections 5.4a(1) and (5) of the New Jersey Employer-Employee Relations Act,

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1/ "C" refers to Commission exhibits received into evidence at the hearing in the instant matter. "CP" and "R" refer to the Charging Party's exhibits and Respondent's exhibits, respectively, received into evidence at the hearing. Transcripts of the hearing are referred to as "T."

N.J.S.A. 34:13A-1 et seq.,[2/] when it refused to provide information requested by Council 6, the statutory majority representative of a collective negotiations unit of County employees. More specifically, Council 6 requested that the County provide it with a list containing the names and home/mailing addresses of all Council 6 unit employees. Council 6 contends this information is necessary to enable it to properly fulfill its statutory obligation to fully and fairly represent all unit employees. N.J.S.A. 34:13A-5.3 and 5.4.

The Director of Unfair Practices issued a Complaint and Notice of Hearing on March 28, 2000 (C-1).

On April 6, 2000, the County filed an Answer (C-2). The County admits that it has refused to provide Council 6 with employee addresses but denies having violated the Act. The County argues that Executive Order No. 11 prohibits it from disclosing certain personnel information as home addresses to anyone other than duly authorized persons. The County also contends that disclosure of employee addresses violates employee privacy rights.

2/ These provisions 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."

Charging Party contends that this information -- employee addresses -- (1) is necessary to enable it to discharge its statutory obligation to properly represent all unit employees; (2) is not precluded from being released to the statutory majority representative by Executive Order No. 11; and (3) is required to be provided to the statutory majority representative under a balancing of interest test.

Council 6 contends that Federal caselaw holds that information about unit employees is presumptively relevant and is required to be provided to the statutory majority representative.

Council 6 argues that Executive Order No. 11 was issued as an exception to the Right-to-Know Law, which requires that public records made be available to the public. Council 6 notes that the Appellate Division has held that employee addresses are not a public record because they are not a record which is required to be kept. See D'Elena v. Burlington Cty, 263 N.J. Super. 109, 116 (App. Div. 1985).

Council 6 further argues that in this matter, it does not ask for this information as a member of the public. It contends that its right to the information is as the statutory majority representative of a collective negotiations unit of County employees, a right which derives from statutes and caselaw regulating employment relations.

Council 6 contends that it seeks this information because it needs it to properly communicate with its unit employees.

Council 6 also asserts that neither the factual record nor the law in this matter supports the County's position that employee addresses should be withheld from the statutory majority representative. Council 6 notes that the County acknowledges the union's right to personal employee information and has provided same (salary, hire date, social security number, etc.) to Council 6 concerning its unit employees. Council 6 cites Burlington County, P.E.R.C. No. 88-101, 14 NJPER 327 (¶19121 1988), where the Commission utilized a balancing test weighing the extent of the employer's duty to provide the information (addresses), the union's need for the information, the employees' privacy interests and the employer's business reasons for withholding the information. There, the Commission determined the union's need for the information outweighed the other factors. Council 6 argues that this matter should be governed by Burlington Cty.

Respondent contends it is not required to release personnel information when (a) an Executive Order bars its release; and (b) public policy demands that it protect employees' first amendment privacy rights.

Respondent asserts that Executive Order No. 11 states that except as provided by law or when essential to the performance of official duties or when authorized by a person in interest, a government employer shall not disclose personnel records to anyone except a person duly authorized by the State to see such information (R-1). Respondent notes Executive Order No.

11 lists several types of personnel information which may be released; employee addresses is not among the listed information. Accordingly, Respondent argues that Executive Order No. 11 mandates nondisclosure of addresses.

Respondent further contends that the record supports keeping the addresses of certain public employees private. Respondent argues that juvenile detention officers have a clear, legitimate interest in maintaining the confidentiality of their home addresses so that their addresses do not become known to youth offenders. Respondent makes a similar argument for unit employees in the Prosecutor's Office, the County Youth Shelter and the County Department of Human Services.

Respondent asserts that Federal cases indicate that where there is a legitimate privacy interest, the employer's obligation to disclose relevant information is converted to an obligation to negotiate an accommodation of the parties' competing interests. Respondent cites GTE California, 324 NLRB 424, 156 LRRM 1113 (1997), where a union contesting a discharge based upon a customer complaint sought the customer's name, address and phone number. The employer refused to provide the information, noting the customer's unlisted phone number. While the Board found the information was relevant, it also found there was a legitimate confidentiality issue (based on the customer's unlisted number, there was an expectation of privacy). The Board concluded that the obligation to disclose was converted to an obligation to negotiate an accommodation.

In this case, although addresses may be necessary for the union to communicate with employees, the Respondent argues Executive Order No. 11 creates an obligation to maintain the privacy of employees' addresses. Instead of giving the addresses to the union, the Respondent has offered to negotiate an accommodation -- use of interoffice mail or for the County to mail letters to employees for the union. Respondent argues it has thus discharged its obligation to negotiate in good faith.

A hearing was conducted on August 9, 2000, at which the parties examined witnesses and presented exhibits. Post-hearing briefs were filed on November 17, 2000, reply briefs on December 5, 2000 and second reply briefs on December 11, 2000.3/ Based upon the entire record in this case, I make the following:

FINDINGS OF FACT

(1) Morris County is a public employer within the

3/ When the Director issued the Complaint and Notice of Hearing in this matter, it included the two counts contained in the charge. The parties reached a tentative settlement of Count II at a prehearing conference. Count I proceeded to hearing. At the conclusion of the hearing on Count I, the settlement of Count II was not yet finalized. By the time briefs had been filed on Count I, Count II still remained unsettled. Charging Party then requested that further dates be scheduled for a hearing on Count II. In January 2001, a (second) prehearing conference was conducted on Count II where a tentative settlement was again reached. The parties subsequently submitted (April 2001) an executed settlement agreement which resolved and withdrew Count II and which appeared to resolve several additional issues in Count I. Subsequently, in April 2001, the parties confirmed that, with the exception of the home address issue, all other aspects of Counts I and II were resolved.

meaning of the Act, is subject to its provisions and is the public employer of the blue and white collar employees involved in this matter.

(2) Morris Council 6 is the statutory majority representative of a collective negotiations unit comprised of all full-time and part-time, blue collar employees and white collar employees employed by Morris County. There are approximately 500 employees in the unit (T21). Council 6 has represented this broad-based, county-wide unit for over 25 years. Council 6 witness Betty Lisovsky has been president of Council 6 for over 25 years (T20-T21; Commission Certifications of Representative RO-469 and RO-79-186).

(3) Council 6 represents several collective negotiations units in Morris County, including a unit of County supervisory employees, a unit of utility authority employees and a unit of housing authority employees (T21).

(4) The County and Council 6 are parties to a collective negotiations agreement covering the blue and white collar employee unit for the period from January 1998 through December 2000. The contract does not contain an agency shop provision (J-1; T22).

(5) Council 6 has shop stewards who handle many day-to-day employment matters. However, not all County departments and offices have a shop steward (T22). It is sometimes difficult for Council 6 to recruit shop stewards (T25).

(6) There are many employees in the blue and white collar employee negotiations unit who do not work regular business hours (Monday to Friday, 9 a.m. to 5 p.m.). At the Morris County Youth Detention Center and at Morris View Hospital, many employees work round-the-clock shifts (24/7). The Buildings and Grounds Department has a day shift and an evening shift (T26).

(7) To communicate with its negotiations unit, Council 6 primarily uses the County's interoffice mail system (T27). Interoffice mail is a system run by the County to deliver mail between all County offices and operations locations (T27). Council 6 has a marked box outside its County office location; Council 6's mail is picked-up from and delivered to that box (T28).

(8) Council 6 has encountered a number of serious problems with the County interoffice mail system. Council 6 receives complaints from unit employees that their mail (from Council 6 and County offices) frequently arrives late -- days, even weeks late, especially at outlying locations (T30-T31). Most troublesome, however, is that Council 6 frequently receives mail delivered to its box which has been opened somewhere during handling (T28-T30). Further, unit members complain to Council 6 that their interoffice mail has been opened and read. It is an ongoing problem (T28-T30). The County has no policy prohibiting one employee from opening the interoffice mail of another employee (T36-T37, T131).

(9) Although Council 6 uses interoffice mail, there is no provision in the contract granting Council 6 this access (T135-T136). And although there are problems with the interoffice mail system, Council 6 has not sought to negotiate about system improvements; rather, they have from time to time raised the problem during conversations with County officials (T60-T62). When pressed about never raising the issue in negotiations, Council 6 President Lisovsky indicated she did not think it was a negotiable issue (T61-T62). The County implemented the system and all changes to it unilaterally (T132-T133).

(10) Council 6 sometimes contacts employees by phone (at work); however, there are also problems with this communication mode. First, Council 6 tries not to disturb employees during work time unless there is an emergent circumstance. Many employees do not have their own phones (at work). Many times, employees are away from their phone/work area when called -- either on the road or otherwise away from their station (T30-T33).

(11) When Council 6 does reach an employee at work, they frequently cannot meaningfully converse about the subject matter of the call due to a lack of privacy (T32-T34).

(12) Council 6 mails a monthly newsletter to employees through the County interoffice mail system. The newsletter contains general non-confidential, non-personal type information -- notices of meetings, Department of Personnel information relating to certain job titles, general status of contract

negotiations, and other workplace and employment news of a general nature that may be of interest to unit employees (T33-T35).

(13) Council 6 also has monthly meetings (except July and August). Attendance is usually not high as it is difficult to provide frequent and timely notice of the meetings to unit employees. Also, the meetings are not unit-specific -- i.e., they involve employees from all of the units which Council 6 represents (T33-T35). Generally, personal matters -- such as discipline and individual grievance issues -- are not discussed (T33-T34).

(14) Council 6 does not have bulletin board access. Council 6 has a computer and has web access. It receives e-mail from some members but generally cannot send them e-mail as it does not have e-mail addresses for most unit employees (T33-T36).

(15) Because of how the interoffice mail system operates, Council 6 President Lisovsky explained that the union was concerned about the lack of confidentiality (privacy) when communicating with unit employees about individual issues and problems requiring confidentiality (T36-T37).

(16) On August 13, 1999, Council 6's attorney, at Lisovsky's request, sent County Director of Labor Relations McGill a letter requesting a list of the names and addresses of all Council 6 blue and white collar unit employees (C-1, Attachment A; T37-T39). Council 6 requested this list because it was generally unable to reach unit employees when it needed to do so (T38-T39). The request for the list in August 1999 came as the specific

result of the processing and resolution of a set of grievances which addressed pay inequities among a segment of unit employees. The resolution of the grievances included various pay adjustments to certain unit employees. Council 6 wanted to notify the employees of those salary adjustments and to explain how and why their pay was being adjusted (T38-T40).

(17) The County declined to provide Council 6 with the addresses of unit employees. Instead, the grievance settlement provided that Council 6 would prepare a draft letter to the affected unit employees, submit it to the County for review and then (if acceptable), the County would mail it to the specified unit employees (T39-T42). In August 1999, Council 6's attorneys prepared the draft letters to the affected unit employees and submitted them to County Administrator Rosenberg for review (CP-1; T39-T42).

(18) There have been further negotiations concerning (incorrect) pay grievances since August 1999 which have resulted in various settlements of compensation issues. However, the union was unable to mail notifications of the compensation adjustments to the affected employees because it lacks their home addresses (T40-T42).

(19) Council 6 requested a list containing the names and addresses of all unit employees. Although the County declined to provide Council 6 with employee addresses, it did provide a current list containing the names of all blue collar/white collar

unit employees, their title, department, hire date, salary and social security number (CP-4; T48-T50).

(20) Paychecks are distributed to employees in the workplace. They are not placed in a sealed envelope. The checks/stubs contain numerous items of personal employee information such as child support payments, lien payments, loans, social security numbers and employee home addresses (T42-T47).

(21) The checks go from the personnel office to a department head/supervisor who designates an employee to distribute the checks. Council 6 has received complaints from its unit employees about the check distribution process -- specifically, (a) that when employees are not at their station to receive the check, it is left in the open where other employees can see the personal information contained on the check/stub; and (b) that some of the people who distribute the checks make comments about the personal information contained therein (T45-T47).

(22) After receiving Council 6's formal demand for a list of unit employees and addresses (dated August 13, 1999), the County (through counsel's letter dated September 22, 1999) denied the request for addresses. However, the County offered to negotiate with Council 6 concerning the use of the County's interoffice mail system for communicating with negotiations unit employees. Council 6 did not reply specifically to that offer (T84-T86). Subsequently, however, Council 6 filed this unfair practice charge (on October 5, 1999).

(23) The blue and white collar county-wide unit contains employees from the Prosecutor's Office and several divisions in the County Department of Human Services -- Youth Detention Center, Youth Shelter, Office of Aging and Office of Nutrition (T90-T91).

(24) The County Youth Detention Center receives youths who have been charged with crimes and are awaiting trial, or youths who have been tried and found guilty and are awaiting sentencing; they are ordered there by the courts. The Youth Detention Center is a lock-down facility where the residents are restricted to that facility (T87-T89). Juvenile detention officers have custodial responsibility for the youths sent to the Youth Detention Center. Among the functions performed by the juvenile detention officers are to: transport juvenile residents to and from locations outside the Youth Detention Center; supervise programs and activities of juvenile residents; provide advice to juvenile residents; observe unusual behavior to uncover rules violations; patrol locations within the Youth Detention Center to ensure safety; search juvenile residents and make room checks for contraband; and ensure that juvenile residents maintain personal hygiene (T87-T90; R-2). There are approximately 30 juvenile detention officers in the county-wide blue and white collar employee unit (T93).

(25) The County Youth Shelter provides shelter services to youths who have been referred there by social work professionals and/or the courts. Youths referred there might be

truants or awaiting placement in a foster care setting, etc. (T87-T90, T96-T99, T107-T108). Youths at the Shelter are not there for criminal conduct; they are not incarcerated (T107-T108).

(26) Unit employees in the Prosecutor's Office are in clerical titles and in some non-clerical, non-supervisory titles (not investigators or assistant prosecutors) (T90-T91). There are approximately 30 unit employees in the Prosecutor's Office (T92-T93).

(27) The County Prosecutor runs the day-to-day operations and determines the professional direction of the office. However, regarding such issues as salaries and benefits, the Prosecutor's Office operates within the labor relations framework of the County (T91-T92).

(28) County Director of Labor Relations McGill testified that he believed the Prosecutor's Office had a rule of never releasing employee addresses to anyone outside the Prosecutor's Office. When asked why the rule existed, McGill stated it was because the work of the office was confidential in nature and that employees had access to sensitive information concerning criminal cases (T90-T92). He stated that the rule was not a written rule and, to his knowledge, was never communicated to Council 6 (T107-T109). However, he subsequently tempered the assertion that the Prosecutor's Office does not release home addresses of employees to anyone outside the office -- he acknowledged that the County Personnel Office has the addresses of Prosecutor's Office employees (T109-T112).

(29) The County has a Department of Human Services which employs (approximately) between 30 and 50 unit employees (T93).4/

(30) The Department of Human Services has various offices: Office of Veterans Services, Office of Aging, Office of Nutrition, Youth Detention Center, and Youth Shelter (T93).5/

(31) McGill testified that the employees in the Office of Aging and the Office of Nutrition "interface" with the State Division of Youth & Family Services (DYFS), the Prosecutor's Office, the courts and local law enforcement agencies (T94-T95).

(32) McGill stated Human Services employees work with DYFS concerning abuse complaints -- "investigating complaints of some misbehavior on the part of a resident or an employee" (T94). He stated that his "general knowledge" was that Human Services employees "would be" involved in the placement of a child pending completion of a DYFS investigation (T95).

(33) McGill stated that Human Services employees were a professional resource for the courts "in terms of the disposition of cases" -- in both civil and criminal matters (T95).

(34) McGill testified about Human Services employees' involvement with the Prosecutor's Office:

4/ Morris County also has a Board of Social Services which provides various social services for County residents (J-1 at p. 2).

5/ It is not clear from the record as to whether the County Department of Human Services has other offices besides those listed here.

> Q. So they're involved with DYFS investigations?
> A. They're involved with the prosecutor's office.
> Q. In what way?
> A. Investigation of alleged criminal activity, either by, if someone is providing a service, a county service or a member of the public who is alleged to have done something wrong (T94).

(35) McGill testified about the involvement of Human Services employees in the Office of Aging and the Office of Nutrition with the Prosecutor's Office and the courts:

> **The Hearing Officer:** Now, are you suggesting that people in the office for the aged are doing these investigations, are people in the office for nutrition doing these investigations?
> **The Witness:** I'm suggesting, or, for example, in the department of aging, if there's a complaint against an elderly person, there may be somebody involved in the division of aging involved in it, and there would be professional people who would be involved in that.
> We have nutrition sites where there may be some problem with the elderly, primarily. And I don't have any intimate details as we sit here what they are, but I know that my general knowledge is that those employees in the Department of Human Services are involved in the mainstream of dealing with the prosecutor's office and dealing with the courts (T-97).

(36) McGill also testified about Human Services employees' involvement with local law enforcement agencies:

> Q. Against that background, and now limiting yourself to the four divisions that you have identified, do the employees in those four divisions interact with local law enforcement, to your knowledge?
> A. I think some of them do. I don't know. I can't say that all of them do, but I believe that some of the employees in those divisions do interact with law enforcement.
> Q. For what purpose?
> A. Confidential investigations, whether there's been a misuse of benefits, domestic violence problems on aging, abuse, for example (T99).

(37) McGill was asked about what investigations a certain employee, who worked in the County Department of Human Services, had participated in (Mary Conklin, a principal account clerk). More specifically, he was questioned about the nature of her interaction with the Prosecutor's Office and with other local law enforcement agencies. He did not know about her interaction (if any) with any law enforcement agencies and he thought she had not participated in any investigations (T102-T104).

(38) McGill was asked about his statements that Human Services employees "interface with law enforcement..." (T105).

> Q. You've been using the term, "interface," and can you give us any specific details as to what that means?
> A. No because they communicate with and they're called upon as a resource. They may be involved in some particular investigation. I just have general knowledge that from day-to-day I learn about these things, but I can't specifically give you the intimate details of the investigation because I'm not aware of it (T105).

(39) In response to questions about which Human Services employees were involved in outside agency investigations, McGill acknowledged that he did not specifically know which employees were involved and conceded that employees who were involved in such investigations might be supervisory or managerial employees who are not part of the Council 6 unit (T105-T107).

LAW AND ANALYSIS

Without the proper exchange of essential information, the collective negotiations process cannot function properly. Hardin and Higgins, The Developing Labor Law, 856 (4th ed. 2001). An

employer is obligated to provide relevant information to the union because without such information, the union would be unable to perform its statutory duties as the negotiations agent -- the statutory majority representative -- of its negotiations unit. Burlington Cty. Bd. of Chosen Freeholders and CWA, P.E.R.C. No. 88-101, 14 NJPER 327 (¶18121 1988), aff'd NJPER Supp.2d 208 (¶183 App. Div. 1989); State of N.J. (OER) and CWA, P.E.R.C. No. 88-27, 13 NJPER 752 (¶18284 1987), recon. den. P.E.R.C. No. 88-45, 13 NJPER 841 (¶18323 1987), aff'd NJPER Supp.2d 198 (¶177 App. Div. 1988); Shrewsbury Bd. of Ed., P.E.R.C. No. 81-119, 7 NJPER 235 (¶12105 1981); Developing Labor Law, supra, at 858; J.I. Case Co. v. NLRB, 253 F.2d 149, 41 LRRM 2679 (7th Cir. 1958); Kroger Co., 226 NLRB 512, 93 LRRM 1315 (1976).

Although collective agreements frequently require the provision of relevant information, the duty to furnish information is a statutory obligation that exists independent of any agreement. Developing Labor Law, supra, at 859; American Standard, 203 NLRB 1132, 83 LRRM 1245 (1973). Relevance is liberally construed -- the information need only be related to the union's function as the collective negotiations representative and appear reasonably necessary for the performance of this function. Developing Labor Law, supra, at 856; J.I. Case Co. Relevance is determined through a discovery-type standard; therefore, a broad range of potentially useful information is allowed to the union for effectuation of the negotiations process. State of New Jersey (OER), at 754. Various

types of information -- particularly concerning terms and conditions of employment -- are presumptively relevant. Such information is required to be disclosed unless it is clearly irrelevant. NLRB v. Yawman and Erbe Co, 187 F.2d 947, 27 LRRM 2524 (2nd Cir. 1951); Bryant and Stratton 323 NLRB 410, 155 LRRM 1033 (1997). When the relevance of requested information is not clear and where disclosure affects employee privacy, then the union may be required to explain relevance before the employer provides the information. Detroit Edison Company v. NLRB, 440 U.S. 301, 100 LRRM 2728 (1979). However, once relevance is established, the employer is required to provide the requested information. Curtiss-Wright Corporation v. NLRB, 347 F.2d 61, 59 LRRM 2433 (3rd Cir. 1965). Requested information is required absent the employer's establishment of an affirmative defense to the disclosure obligation -- such as the privacy interests of employees. See Detroit Edison, (court denied a request for employees' psychological test results, citing established policies against disclosure of such sensitive information as psychological tests that could implicate a person's basic competence). The party asserting confidentiality interests has the burden of proof. NLRB v. U.S. Postal Service, 888 F.2d 1568, 133 LRRM 2152 (11th Cir. 1989), enforcing 289 NLRB 942, 129 LRRM 1169 (1988).

In evaluating cases where a privacy affirmative defense is asserted, the Board uses a balancing-of-interests approach. Magma Copper Company, 208 NLRB 329, 85 LRRM 1051 (1974). Thus, where an

employer asserts that disclosure of the information sought would violate employees' rights of privacy, the employer must show that harm will result from the disclosure. Salt River Valley v. NLRB, 769 F.2d 639, 120 LRRM 2265 (9th Cir. 1985). In Burlington County, the Commission took a similar balancing approach:

> We consider all the circumstances of a case in deciding the extent of an employer's duty to supply information, including an employee's privacy interest, the union's need for the information and the employer's business reasons for not supplying requested information.
>
> Burlington County at 329.

Name and address information concerning unit employees is considered to be presumptively relevant. Prudential Insurance Company v. NLRB, 412 F.2d 77, 71 LRRM 2254 (2nd Cir. 1969); and Bryant and Stratton. In Prudential, the union sought the names and addresses of unit members (insurance agents) who were spread across the country. The NLRB held that Prudential's refusal to provide this information was a violation of subsections a(5) and a(1) of the National Labor Relations Act and it ordered the information to be provided. In enforcing this order, the Court stated:

> It seems manifest beyond dispute that the Union cannot discharge its obligation [to fairly represent all unit employees] unless it is able to communicate with those on whose behalf it acts.... [I]n order to administer an existing agreement effectively, a union must be able to appraise the employees of the benefits to which they are entitled under the contract.... The kind of information [addresses] requested by the union in this case has an even more fundamental relevance than that considered presumptively relevant.... Because this information is therefore so basically related to the proper

> performance of the union's statutory duties, we believe any special showing of specific relevance would be superfluous.
>
> Prudential, supra, at 84.

In Standard Oil Company of California v. NLRB, 399 F.2d 639, 69 LRRM 2014 (9th Cir. 1968), the employer had mailed anti-union propaganda to all unit employees at their homes. The union sought the names and addresses of all unit employees so that it could furnish pro-union propaganda to the employees. The Court held that the union's receipt of names and addresses was necessary in order to enable the union to properly perform its statutory duties as the exclusive majority representative of the employees in the negotiations unit. The failure to provide the information violated the employer's duty to negotiate in good faith and interfered with employees' protected rights. See NLRB v. CJC Holdings, 97 F.3d 114, 153 LRRM 2580 (5th Cir. 1996), (requiring an employer to provide employee addresses so that the union could mail a regular newsletter to unit employees and rejecting employer's contention that other available communication modes were adequate); Bryant and Stratton, 323 NLRB at 410. ("It is well settled that information concerning names, addresses...and other terms and conditions of employment...is presumptively relevant to the union's role as the exclusive collective bargaining representative.") See also Janko, Inc., 316 NLRB 413, 148 LRRM 1280 (1995) (employer required to give address information to union to ascertain whether unit employees were being used in violation of the collective

negotiations agreement; information held presumptively relevant); United Graphics, 281 NLRB 463, 123 LRRM 1097 (1986) (union sought names, addresses, wages and other terms and conditions of employment of certain temporary employees who had performed unit work; Board found information presumptively relevant and directly related to policing the collective negotiations agreement).

In Burlington County, Charging Party CWA alleged that Respondent had violated sections 5.4a(1) and a(5) of the Act when it refused Charging Party's request for the names and home addresses of representation (agency shop) fee payers. The County argued that CWA had other adequate means of communicating with unit employees, that disclosure of addresses would violate employees' constitutional and statutory privacy rights, and that 5.3's guarantee that employees may refrain from assisting employee representatives protects agency fee payers (who answered "no" on an employer survey) from address disclosure.

In addressing intersecting arguments concerning privacy and disclosure of information, Hearing Examiner Roth observed:

> Privacy interests have prevailed when federal employee unions have sought disclosure of home addresses under the FOIA [Freedom of Information Act]. American Federation of Gov't Employees, Local 1923 v. U.S. Dept. of Health and Human Services, 712 F.2d 931, 113 LRRM 3537 (4th Cir. 1983); National Treasury Employees Union v. Federal Deposit Ins. Corp., ____ F. Supp. ____, (D.DC. Cir. 1987). Disclosure interests have generally prevailed when federal employee unions have sought the release of home addresses under the Federal Labor Service Management Relations Act ("FLSMRA"), 5 USCA § 7101 et seq. Dept. of Health and Human Services v. FLRA, 833 F.2d 1129,

> 126 LRRM 3235 (4th Cir. 1987); AFGE, Local 1760 v. FLRA, 786 F.2d 554, 122 LRRM 2137 (2nd Cir. 1986). In sustaining federal employee privacy interests under the FOIA, the Fourth Circuit Court of Appeals acknowledged in a footnote: "[The union] may be entitled to the [addresses] under some other federal law. See Prudential, [citation omitted]. We hold only that the [FOIA] is not a proper vehicle for the disclosure of that information." AFGE, Local 1923 at 113 LRRM 3539.
>
> CWA seeks disclosure under our Act, which requires an application of principles unique to a system of collective negotiations. The doctrine of exclusive representation and the duty of fair representation attenuate rights an employee may otherwise retain under the FOIA or similar state statute.
>
> Burlington County, H.E. No. 88-43, 14 NJPER 211 at 216 (¶19076 1988).

In this regard, the Court, in Department of Health and Human Services v. FLRA, 833 F.2d 1129, 126 LRRM 3235 (4th Cir. 1987), stated:

> The instant cases come before us in a different posture in that AFGE, Local 1923 was not a review of a ruling by the Federal Labor Relations Authority. Here the Union has sought disclosure under the Statute [Federal Labor Management Relations Act, 5 U.S.C.S. § 7101 et seq.], not directly under the FOIA. The Authority has determined that SSA's refusal to disclose its employees' home addresses to the Union constitutes an unfair labor practice.... These are not cases involving FOIA requests. We find that the Authority has...properly applied the FOIA balancing test and we find no error in its conclusion that disclosure is warranted under the Federal Labor-Management Relations Act.
>
> 833 F.2d at 1135.

In Burlington County, the Commission held, in agreement with the Hearing Examiner, that the County was required to provide

unit employee names and addresses to the majority representative. The Commission stated:

> An employer must supply information that may help a majority representative carry out its statutory duties.... Names and home addresses are relevant to enable the majority representative to communicate with the employees it represents....
>
> We consider all the circumstances of a case in deciding the extent of an employer's duty to supply information.... Here the scales tip to the union's needs. The union requires the information to comply with its obligation to notify employees under the representation fee statute...as well as to communicate with the employees it represents. Further, there is no indication that the union will use this information for any improper purpose.
>
> Burlington at 329.

See also, Department of Health and Human Services, where the court, facing a similar confidentiality argument stated:

> ...we find the desirability of direct communication and the resulting need for names and home addresses sufficiently connected to support the Authority's presumption that such information is "necessary" to the collective bargaining process under 5 U.S.C. § 7114(b)(4)(B). The presumption of necessity is of course rebuttable. The Authority has observed that disclosure need not be made in situations where, for example, evidence of a union's past actions supports a conclusion that employees would be in imminent danger if their home addresses were released to the union.
>
> 833 F.2d at 1133.

Finally, in Burlington, the Commission concluded:

> The intrusion on employees' privacy is minimal: they will receive some mail which will ensure their constitutional right to information concerning representation fee payments and will receive other mail which they may elect not to

> read. Therefore, under these circumstances, the public interest in collective negotiations and satisfactory performance of the union's statutory duty outweighs the employee's privacy interests in not disclosing a home address.
>
> Burlington at 329.

In this matter, the information requested by Council 6 -- unit employee addresses -- is presumptively relevant and is necessary to Council 6's proper discharge of its statutory obligation to fairly represent all unit employees. N.J.S.A. 34:13A-5.3 and 5.4; Burlington County; Prudential Insurance Company; and Bryant and Stratton. Here, the union needs the requested information in order to appropriately communicate with its unit employees.

The record shows that the various means of communication now available to Council 6 are inadequate -- there are insufficient shop stewards; the newsletter is frequently weeks late and is unsuitable to communicate information about specific, individual matters; monthly meetings are sparsely attended, and personal, individual matters are usually not appropriate for that open, public forum; the union lacks employee e-mail addresses; the union has no bulletin board access; interoffice mail is both frequently slow and unsecure, i.e., the mail is sometimes opened enroute to the addressee; employees' work phones are also inadequate because not all employees have work phones, some employees are frequently not near their office phones and when employees are able to be reached on their work phone, they frequently cannot discuss sensitive matters due to a lack of privacy.

Council 6 needs employee home addresses in order to be able to efficiently, timely and securely communicate with its unit employees about the business which is necessarily conducted between employees and their statutory majority representative on a continuous basis. Anything which impedes that communication between employees and their union necessarily interferes with employee rights and the statutory majority representative's rights under the Act. Burlington; Prudential.

The County argues that Executive Order No. 11 mandates that it withhold employee addresses from Charging Party Council 6. I disagree.

Respondent contends that Executive Order No. 11 states that except as provided by law or when essential to the performance of official duties or when authorized by a person in interest, a government employer shall not disclose personnel records to anyone except a person duly authorized to see such information; therefore, the County argues, it was correct in withholding employee address information from Council 6.

Executive Order No. 11 was promulgated as an exemption to the Right to Know Law, N.J.S.A. 47:1A-2, the statute which requires that public records be available for inspection by every citizen of this State. Specifically, N.J.S.A. 47:1A-2, states in relevant part:

> Except as otherwise provided in this act or by any...**executive order of the Governor**, all records which are required by law to be...maintained by...any agency...shall...be deemed to be public records.

Thus, Executive Order No. 11 provides an exemption as to what may be procured as a public record -- specifically, that personnel records shall not be considered as public records under the Right to Know Law.

Executive Order No. 11 does not apply to the circumstances presented by this case. It does not apply because the request for information here does not arise under the Right to Know statute -- the information request is neither made in a context governed by the Right to Know statute nor by a party in interest under that statute. Council 6 is not acting here as a member of the public seeking information from an entity of government[6/] under the Right to Know statute. Rather, Council 6 seeks this information as the statutory majority representative of a collective negotiations unit of blue and white collar County employees. It seeks this information in the context of its collective negotiations relationship with the County, pursuant to all of the attendant rights and obligations created by the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., and applicable caselaw. Accordingly, because the information requested in this matter was not sought pursuant to the Right to Know statute, Executive Order No. 11 does not apply to this circumstance. See NLRB v. United States Postal Service, 888 F.2d 1568, 133 LRRM 2152 (11th Cir.

6/ Council 6 is a member of the public and may, in other situations, choose to exercise its rights under the Right to Know statute. However, it has not done so here.

1989); Department of Health and Human Services; cf. American Federation of Government Employees, Local 1923 v. U.S. Department of Health and Human Services, 712 F.2d 931, 113 LRRM 3537 (4th Cir. 1983).

If Executive Order No. 11 is deemed to apply to this circumstance, at least one of the exceptions in Executive Order No. 11 applies so as to permit disclosure of addresses to Council 6.

Executive Order No. 11 states, in relevant part, that "Except as otherwise provided by law, or when essential to the performance of official duties or when authorized by a person in interest", personnel records shall not be disclosed to anyone by a public employer (R-1).

However, N.J.S.A. 34:13A-1 et seq. and the extensive caselaw providing that addresses shall be provided to the statutory majority representative, authorize the provision of the information sought by Council 6 under the "except as otherwise provided by law" exception in Executive Order No. 11. See Burlington County, H.E. Decision at 216.

Respondent also argues that it should not be required to disclose the addresses of several groups of employees within Council 6's blue and white collar negotiations unit (Prosecutor's Office and Department of Human Services), and further argues that because unit employees can be transferred to any title in the negotiations unit that, therefore, the County should not be required to disclose the addresses of any unit employees. I disagree with both arguments.

Even assuming arguendo that the County would be permitted to withhold the addresses of one or more specific employee groups which it identified as having a confidentiality/security based concern for withholding addresses, the record did not indicate that a large number of transfers have occurred or were likely to occur in this negotiations unit. Accordingly, without a demonstration of overwhelming security concerns for an identified group (or groups) within the unit -- and no such concern was established here -- I would not recommend that the County be permitted to withhold the addresses of all unit employees because the addresses of one subgroup in the unit might be deemed properly withheld.

The County argued that the addresses of unit employees working in the following offices should not be disclosed: (a) the County Youth Detention Center; (b) the Prosecutor's Office; (c) the County Youth Shelter; (d) the County Office of Aging; and (e) the County Office of Nutrition.

McGill's testimony with regard to the confidential/security type functions the County contended were performed by unit employees in the Office of Aging, the Office of Nutrition and the Prosecutor's Office was vague and unspecific. He was unable to identify any specific unit employee from the Offices of Aging and Nutrition that was involved in any investigation with any outside law enforcement agency or DYFS. He was unable to specify any investigation in which such employees were purportedly involved, or the nature of their involvement. He conceded that any employees in the Prosecutor's

Office, the Office of Aging and the Office of Nutrition who might be involved in criminal or sensitive-issue investigations might well be supervisory or managerial employees and therefore would not be employees from Council 6's negotiations unit. The record does not indicate that any unit employees from these offices have ever become directly involved with the subject of either criminal or sensitive-issue investigations. Thus, it is quite unlikely that unit employees in these offices would go out and actively investigate criminal or DYFS-type matters. I specifically do not credit/interpret McGill's testimony on this subject to mean that. Further, to the extent that unit employees from the Offices of Aging and Nutrition do interact with outside (police) agencies or DYFS, I do not find that unit employees interact directly with the "target" of any investigation being conducted by such outside agencies.

Based upon the entire record -- and particularly findings of fact numbers 23-39 -- I find that the County did not establish that unit employees in the Department of Human Services -- specifically employees in the Office of Aging and the Office of Nutrition -- are directly involved in performing criminal or DYFS/criminal investigations.7/ Rather, to the extent that unit employees from these offices are involved in outside agency investigations at all, it appears they may be utilized as a

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7/ By DYFS/criminal investigations, I refer to matters involving such issues as child or spousal abuse, which may have both criminal and social work components.

secondary resource by agencies and professionals who actually conduct the criminal and DYFS/criminal investigations.

Based upon the entire record -- and particularly findings of fact numbers 23-39 -- I find that the County did not establish that unit employees in the Prosecutor's Office are directly involved in performing criminal or DYFS/criminal investigations. Rather, to the extent that any unit employees working in the Prosecutor's Office may be involved with investigations or prosecutions being conducted by the Prosecutor's Office, they are involved, at most, in a secondary or support capacity, i.e., as clerical support or in such secondary roles as accountants or systems analysts (J-1, Article 1 and Schedule 1). There is no indication in the record that unit employees are directly involved in conducting investigations, nor is there any indication that they are involved directly with the targets of investigations or prosecutions, as are assistant prosecutors or prosecutor's investigators (J-1, Schedule 1).

Contrast what the employees in these offices do (or, apparently, do not do) with the employees whose addresses were ordered not to be disclosed to the union in Pennsylvania Power and Light Company, 301 NLRB 1104, 136 LRRM 1225 (1991). In that case, the Board concluded the public's and employer's interests in promoting a drug-free workplace outweighed the union's right to the names and addresses of unit employee informants who gave information about alleged drug use in the workplace. The Board concluded the

potential for harassment of the informants was high and would have a negative effect on future potential informants and investigations. See Chicago Tribune v. NLRB, 965 F.2d 244, 140 LRRM 2516 (7th Cir. 1992). (Court ordered addresses of strike replacements withheld.) However, the National Labor Relations Board has allowed and continues to allow the disclosure of addresses of strike replacements, in the absence of the employer demonstrating that disclosure would create a "clear and present danger" for employees. See, Diamond Walnut Growers, 312 NLRB 61, 145 LRRM 1256 (1993), enforced, 53 F.3d 1085, 149 LRRM 2400 (9th Cir. 1995); Burkart Foam Inc., 848 F.2d 825, 128 LRRM 2772 (7th Cir. 1988) (the employer failed to show that providing the address information presented a clear and present danger to the unit employees); and Sumner Home for the Aged, 226 NLRB 976, 93 LRRM 1489 (1976) (insufficient evidence to support the employer's claim that furnishing the union with the names and addresses of strike replacement employees would result in harassment and possible violence to those employees).

Based upon the entire record -- and particularly findings of fact numbers 23-39 -- I find that the unit employees working at the Youth Shelter provide residential services and social work and other support services to youths who are residents of the Shelter. The youths who are in the Shelter are not incarcerated; they are not charged with or convicted of crimes; in fact, many of them are there not for reasons concerning their behavior but because of the behavior of adults or other persons in their normal environment.

The County argues that because juvenile detention officers perform custodial functions for juveniles who have been charged with or convicted of crimes, there is a clear interest in maintaining the confidentiality of their home addresses so that those addresses do not become known to youth offenders. As it is stated here, this argument is incomplete and therefore, incorrect. It suggests that unless absolute confidentiality is maintained, the employee addresses will become possessed by youth offenders. Or, alternatively, it suggests that by giving the addresses to the union, they will become possessed by youth offenders. Neither of these conclusions is supported by the record.

Nothing in the record suggests that if Council 6 was provided the addresses of the juvenile detention officers that they would so mishandle the information that it would become known to youth offenders. There is no indication in the record that Council 6 would act in any way so as to compromise the security of employee address information -- e.g., to sell address lists to mass advertisers -- or otherwise carelessly handle the information.

Council 6 has been the majority representative of the broad-based county-wide unit for over 25 years. To the extent that unit employees have an interest in maintaining the confidentiality of any personal employment information -- such as home addresses -- Council 6, as their elected majority representative, is likely to act in a manner which would ensure the maintenance of that confidentiality, particularly with regard to any personal information with which it is entrusted.

In sum, there is no evidence in the record which suggests that Council 6 would not handle address information of juvenile detention officers with appropriate discretion. Burkart Foam, at 833-835.

The County argues that under GTE, where there is a legitimate confidentiality interest, an employer's obligation to disclose such relevant information as employee addresses is converted to an obligation to negotiate an accommodation of the parties' competing interests -- an offer which the County contends it made. GTE and other similar cases are inapposite. Within the caselaw addressing union information requests, the accommodation line of cases developed with respect to information claimed to be confidential for business reasons -- trade secrets, financial data, etc. Information requests implicating privacy concerns of unit employees have been addressed through the balancing-of-interests approach set forth in Detroit Edison Company, Burlington County and Magma Copper Company. See also NLRB v. United States Postal Service, 888 F.2d 1568, 133 LRRM 2152 (1989).

In GTE, the union sought a customer's name from GTE (a telephone company). The customer, whose telephone number was unlisted, had filed a complaint that was the focus of a grievance. Noting that there was no relationship between union and customer and there was an expectation of privacy created by the customer account's nonlisted status, the Board found there was no obligation to disclose the address information but that the employer was required to negotiate an accommodation.

In the instant matter, there is an agency relationship between the statutory majority representative, Council 6, and its unit members, created in accordance with the prescriptions of the New Jersey Employer-Employee Relations Act. In this relationship between representative and unit members, there is no expectation of privacy concerning such information as addresses because in order to properly discharge its obligation to represent all unit employees, a majority representative must be able to communicate with them. See, Salt River Valley v. NLRB, 769 F.2d 639, 120 LRRM 2265 (9th Cir. 1985) (court ordered disclosure of employee's personnel file where there was no expectation of privacy); and NLRB v. United States Postal Service; see also, Burlington County; cf. Fairmont Hotel; 304 NLRB 746, 139 LRRM 1133 (1991) (Board ordered disclosure of identity of complaining hotel guest noting that the employer/hotel did not promise anonymity to guest nor did the guest have any reasonable expectation of such privacy; the Board also noted that the guest had previously testified at an arbitration hearing where her identity was revealed).

CONCLUSIONS

Employee addresses are presumptively relevant and necessary to the performance of a majority representative union's statutory obligation to properly represent all unit employees. Absent its establishment of an affirmative defense permitting the withholding of addresses, the County was obligated to provide Council 6 with a list of all unit employee names and addresses. The County failed to

establish any affirmative defense which, on balance, warranted the withholding of addresses.

Executive Order No. 11 does not prohibit the disclosure of unit employee addresses sought by a statutory majority representative in accordance with the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. Neither the record nor the law supports the contention that the job functions of certain employee groups within Council 6's negotiations unit warrant withholding unit employee addresses from Council 6.

The record does not indicate the specific functions that are performed by unit employees in the Prosecutor's Office, the Youth Shelter, the Office of Aging and the Office of Nutrition -- employee subgroups whose addresses the County argues should be withheld. Nor does it indicate how or why disclosing addresses of the employees performing these jobs would create a risk -- to the employees or to the employer -- sufficient to warrant withholding employee addresses from the statutory majority representative.

The record does indicate the various functions performed by juvenile detention officers; the County argues that based upon those functions, these employees have an interest in keeping their address information confidential, so that it does not become known to youth offenders who are (or have been) incarcerated at the County Youth Detention Center, and thus create the liklihood for harassment of or violence to these employees. However, the record shows no nexus between providing the addresses to the statutory majority

representative and the liklihood for harassment/violence to the juvenile detention officers. There is no history which suggests that Council 6 is likely to abuse or mishandle personal employee information. Indeed, should there be security issues regarding any unit employees, Council 6 is likely to share the County's concerns and seek to eliminate or minimize them. I will not presume that Council 6 would treat the address information inappropriately. Burlington County; Department of Health and Human Services.8/ Although the employer contends that harm will result from address disclosure, it has not demonstrated that. Salt River Valley.

In this case, there is insufficient evidence to support the employer's claim that the disclosure to Council 6 of addresses of unit employees at the Office of the Aged, Office of Nutrition, Prosecutor's Office, Youth Shelter, Youth Detention Center or in any other office where unit employees work would create a clear danger to the unit employees. Therefore, I conclude that Morris County violated § 5.4a(5), and derivatively a(1), of the Act when it refused to supply Council 6 with the home addresses of all unit employees. Accordingly, the County should provide Council 6 with the addresses of all unit employees.

8/ Should the County remain concerned about any confidentiality/privacy issues raised by the provision of employee address information, it may subsequently seek to negotiate with Council 6 concerning identifiable confidentiality issues attendant upon the information disclosure.

RECOMMENDED ORDER

I recommend that the Commission ORDER that:

A. Respondent County cease and desist from

1. Interfering with, restraining or coercing its employees in the exercise of rights guaranteed to them by the Act, particularly by refusing to provide Morris Council 6 with home addresses of all employees included in the Council 6 blue collar/white collar employee county-wide unit.

2. Refusing to negotiate in good faith with Morris Council 6 concerning terms and conditions of employment, particularly by not disclosing relevant information.

B. That the County take the following affirmative action:

1. Provide Council 6 with a list of all unit employees together with their home addresses.

2. 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.

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

Charles A. Tadduni
Hearing Examiner

DATED: March 26, 2002
Trenton, New Jersey

RECOMMENDED

NOTICE TO 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 NOT interfere with, restrain or coerce our employees in the exercise of rights guaranteed to them by the Act, particularly by refusing to provide Morris County 6 with home addresses of all unit employees.

WE WILL NOT refuse to negotiate in good faith with Morris Council 6 concerning terms and conditions of employment, particularly by not disclosing relevant information.

WE WILL provide Council 6 with a list of all unit employees together with their home addresses.

Docket No. CO-H-2000-74 County of Morris
(Public Employer)

Date: _____ By: _____

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 Street, P.O. Box 429, Trenton, NJ 08625-0429 (609) 984-7372

APPENDIX "A"

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