STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

International Union of Operating Engineers, Local 150,	)	
Charging Party	)	
and	)	Case Nos. S-CA-10-221
Village of Oak Lawn,	)	
Respondent	)	

DECISION AND ORDER OF THE ILLINOIS LABOR RELATIONS BOARD STATE PANEL

On April 17, 2012, Executive Director John F. Brosnan issued an order dismissing the unfair labor practice charge filed by the International Union of Operating Engineers, Local 150 (Charging Party) in the above-captioned case. The Charging Party alleged that the Village of Oak Lawn (Respondent) engaged in unfair labor practices within the meaning of Sections 10(a)(4) and (1) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), as amended (Act).[1] On April 24, 2012, Charging Party filed a timely appeal of the Executive Director's dismissal pursuant to Section 1200.135 of the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code §1200.135. The Respondent filed no response.

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[1] Sections 10(a)(4) and (1) provide, in relevant part:

> It shall be an unfair labor practice for an employer or its agents:
> (1) to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed in this Act or to dominate or interfere with the formation, existence or administration of any labor organization or contribute financial or other support to it; provided, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay;
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> * * *
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> (4) to refuse to bargain collectively in good faith with a labor organization which is the exclusive representative of public employees in an appropriate unit, including, but not limited to, the discussing of grievances with the exclusive representative[.]

After reviewing the record and the appeal, we reverse the Executive Director's order dismissing the charge and remand for the issuance of a complaint for hearing. The parties had entered into a memorandum of understanding containing the parameters of an agreement and an expressed intent to issue a more detailed document. They began the process of completing the second document, but did not finish that task, according to Charging Party, because of Respondent's conduct. Had the parties reached a meeting of the minds regarding the content of that more specific document, a complaint surely should have been issued in this case alleging a violation of Sections 10(a)(4) and (1) and possibly (7) of the Act,[2] and whether the parties had such a meeting of the minds here certainly presents a question of law and fact warranting resolution through the hearing process.

For this reason, the Executive Director's dismissal is reversed, and the cause is remanded for issuance of a complaint.

BY THE STATE PANEL OF THE ILLINOIS LABOR RELATIONS BOARD

Jacalyn J. Zimmerman, Chairman

Paul S. Besson, Member

James Q. Brennwald, Member

Michael G. Coli, Member

Albert Washington, Member

[2] Section 10(a)(7) provides:

> It shall be an unfair labor practice for an employer or its agents:
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> * * *
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> (7) to refuse to reduce a collective bargaining agreement to writing or to refuse to sign such agreement.

Decision made at the State Panel's public meeting in Chicago, Illinois, on June 12, 2012, written decision issued at Chicago, Illinois, August 10, 2012.

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DISMISSAL

On March 12, 2010, Charging Party, International Union of Operating Engineers, Local 150 (Union of Local 150), filed an unfair labor practice charge in the above captioned case, with the State Panel of the Illinois Labor Relations Board (Board), alleging that Respondent, Village of Oak Lawn (Employer or Village), violated Section 10(a) of the Illinois Public Labor Relations Act (Act), 5 ILCS 315 (2010), *as amended.* Following an investigation conducted pursuant to Section 11 of the Act, I determined that the charge fails to raise an issue of fact or law sufficient to warrant a hearing, and issue this dismissal for the reasons set forth below.

I. INVESTIGATORY FACTS

Respondent is a public employer within the meaning of Section 3(o) of the Act. Charging Party is a labor organization within the meaning of Section 3(i) of the Act, and the exclusive representative of a bargaining unit comprised of Respondent's public works employees. The Union and the Village are parties to a collective bargaining agreement (agreement) which provides a grievance procedure culminating in arbitration.

Local 150 alleges that the Village violated Section 10(a)(4) of the Act when it submitted a modified version of a letter of understanding (LOU), to which the Union objected, and then the Village refused to arbitrate the disputed issues in the LOU. The Union states that after considerable bargaining, the Village and the Union agreed to certain economic concessions in order to rein in the Village's $2.6 million dollar

deficit. The Union agreed to concessions equal to 50% of its portion of the Village budget. In order to avoid the lay-off of 17 unit members, the Union and the Village agreed to wage freezes and an increase in employee contributions to healthcare. In exchange for the Union concessions for the year 2010, the Village offered a 50-50 split with the Union of any surplus income or sales tax revenue. On August 25, 2009, the parties approved the deal and signed the LOU. Creation of the formal settlement agreement was left to Local 150. On October 7, 2009, Ken Edwards, Local 150 Attorney, submitted a draft of the agreement to Village Attorney, April Walkup.

On December 2, 2009, Walkup submitted an edited draft of the agreement to Edwards, with changes. The changes made to the agreement by the Village were significant to the Union, and in its point of view provided radically less than agreed to in the LOU. Instead of a straight 50-50 split of any surplus income or sales tax revenue, the Village now proposed that the Union's portion of any sales and/or income tax surplus would be 22.7%, or equal to its portion of the Village budget. In or around January 2010, the Union balked at this proposal, and suggested the parties submit the issue to arbitration. The Village declined arbitration, claiming that its draft of the LOU was never agreed to, thus no violation of the Act.

II. DISCUSSION AND ANALYSIS

The Union claims that the Village's refusal to arbitrate violates the agreement and the Act. The Village assumes that the Union has based its claim on a dispute over the interpretation of the 50/50 split of sales and income tax revenue. For its part, the Village asserts that the charge should be dismissed, claiming that this dispute is outside the jurisdiction of the Board.

Section 16 of the Act provides that Illinois circuit courts have the authority to hear allegations of breaches of collective bargaining agreements In Village of Creve Coeur, 3 PERI ¶2063 (IL LRB 1987), and supplemental decision, 4 PERI ¶2002 (ILRB 1987), a Respondent's refusal to arbitrate a matter of contract interpretation was not a violation of the Act. In County of Cook, 7 PERI ¶3020 (IL LRB 1991), the Board held that where a refusal to arbitrate arises from a good faith disagreement of the interpretation of an agreement, the jurisdiction over such matters is properly vested in the Illinois courts. Moreover,

modification of the collective bargaining agreement is a permissive topic of bargaining. If the parties are not in agreement as to the letter of understanding, there is no duty to bargain in connection with it.

III. ORDER

Accordingly, the instant charge is hereby dismissed. Charging Party may appeal this dismissal to the Board at any time within 10 calendar days of service hereof. Any such appeal must be in writing, contain the case caption and number, and be addressed to the Board's General Counsel, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103. Appeals will not be accepted in the Board's Springfield office. In addition, any such appeal must contain detailed reasons in support thereof, and the party filing the appeal must provide a copy of its appeal to all other persons or organizations involved in this case at the same time the appeal is served on the Board. The appeal sent to the Board must contain a statement listing the other parties to the case and verifying that a copy of the appeal has been provided to each of them. An appeal filed without such a statement and verification will not be considered. If no appeal is received within the time specified herein, this dismissal will become final.

Issued in Chicago, Illinois, this 17th day of April, 2012.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

John F. Brosnan
Executive Director