

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

Illinois Council of Police,	)	
	)	
Charging Party,	)	
	)	
and	)	Case No. S-CA-15-071
	)	
Village of Maywood,	)	
	)	
Respondent.	)	

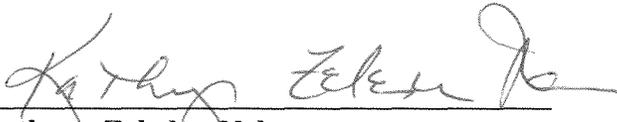
**ORDER**

On June 12, 2015 Administrative Law Judge Kelly Coyle, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its September 9, 2015 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

**THEREFORE**, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

**Issued in Chicago, Illinois, this 9th day of September 2015.**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

  
\_\_\_\_\_  
**Kathryn Zeledon Nelson**  
**General Counsel**

**STATE OF ILLINOIS  
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Charging Party	)	
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Village of Maywood,	)	
	)	
Respondent	)	

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On November 24, 2014, the Illinois Council of Police (Charging Party or Union) filed a charge with the State Panel of the Illinois Labor Relations Board (Board) alleging that the Village of Maywood (Respondent or Village) engaged in unfair labor practices within the meaning of Section 10(a) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2012) as amended (Act). The charge was investigated in accordance with Section 11 of the Act and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules). The Board’s Executive Director issued a Complaint for Hearing on February 24, 2015, alleging the Respondent violated Section 10(a)(4) and (1) of the Act.

The Complaint for Hearing contained the following language:

**RESPONDENT IS HEREBY NOTIFIED** that pursuant to Section 1220.40(b) of the Board’s Rules and Regulations, 80 Ill. Admin. Code §§1200-1240, it must file an answer to this complaint with Kelly Coyle, Illinois Labor Relations Board, 160 N. LaSalle St., Ste S-400, Chicago, IL 60601, and serve a copy thereof upon Charging Party within 15 days after service of the complaint upon it. Said answer shall include an express admission, denial, or explanation of each and every allegation of this complaint. **Failure to specifically respond to an allegation shall be deemed an affirmative admission of the facts or conclusions alleged in the allegation. Failure to timely file an answer shall be deemed to be an admission of all material facts or legal conclusions alleged and a waiver of**

**hearing. The filing of any motion or other pleading will not stay the time of filing an answer.**

(emphasis in original). According to the affidavit of service attached to the Complaint, on February 24, 2015, a Board agent mailed a copy of the complaint by first-class mail to Edwenna Perkins, Mayor of Maywood, at 40 East Madison Street, Maywood, Illinois 60153. The Village has not filed an answer.

On March 25, 2015, I issued an Order directing the Village to show cause no later than April 8, 2015, why I should not issue a default judgment consistent with Section 1220.40(b) of the Board's Rules. I served the Order on Mayor Perkins at the same address above by certified mail, return receipt requested. According to the United States Postal Service's records, the Respondent received the Order on March 27, 2015. To date, the Village has not filed an answer or a response to the Order.

**I. DISCUSSION AND ANALYSIS**

Given the Village's failure to respond to both the Complaint for Hearing and the Order, default judgment is appropriate. The Board's Rules specifically address the requirements for filing a timely answer and the consequences for failing to do so. Under Section 1220.40(b) of the Board's Rules, "[w]henver the Executive Director issues a complaint for hearing, the respondent shall file an answer within 15 days after service of the complaint and deliver a copy to the charging party by ordinary mail to the address set forth in the complaint." Furthermore, Section 1220.40(b)(3) states:

Parties who fail to file timely answers shall be deemed to have admitted the material facts and legal conclusions alleged in the complaint. The failure to answer any allegation shall be deemed an admission of that allegation. Failure to file an answer shall be cause for the termination of the proceeding and the entry of an order of default. Filing of a motion will not stay the time for filing an answer.

Generally, Illinois courts and the Board have strictly construed these rules, holding that failure to file a timely answer constitutes admission of the allegations in the complaint and justifies default judgment. Wood Dale Fire Prot. Dist. v. Ill. Labor Relations Bd., State Panel, 395 Ill. App. 3d 523 (2d Dist. 2009), aff'g, 25 PERI ¶ 136 (IL LRB-SP 2008); Metz v. Ill. State Labor Relations Bd., 231 Ill. App. 3d 1079 (5th Dist. 1992), aff'g, Circuit Clerk of St. Clair Cnty, 6 PERI ¶ 2036 (IL SLRB 1990).

Here, the evidence establishes that the Village was properly served with both the Complaint for Hearing and the Order to Show Cause. Both the Complaint and the Order stated the consequences for failing to comply with the Board's Rules. However, the Village has not filed an answer, timely or otherwise, and has not responded to the Order. As such, I find that the Village has admitted the material factual and legal allegations as stated in the Complaint such that no question of fact or law exists requiring a hearing.

## **II. RESPONDENT'S ADMISSIONS**

By failing to file an answer, Respondent has admitted the following material facts and legal allegations as stated in the Complaint.

1. At all times material, the Respondent is a public employer within the meaning of Section 3(o) of the Act.
2. At all times material, the Respondent has been subject to the jurisdiction to the State Panel of the Board, pursuant to Section 5(a-5) of the Act.
3. At all times material, Respondent has been subject to the Act, pursuant to Section 20(b) thereof.
4. At all times material, Charging Party is a labor organization within the meaning of Section 3(i) of the Act.

5. At all times material, the Charging Party is the exclusive representative of a bargaining unit (Unit) comprised of police officers in the Maywood Police Department.
6. At all times material, Police Chief Val Talley is an agent of the Respondent, authorized to act on its behalf.
7. On or about August 24, 2014, Talley cited Unit member Brandon Hawkins for a violation of Maywood Municipal Ordinance 71.09 (Use of Seatbelts in a Motor Vehicle) for not wearing his seatbelt.
8. On or about September 9, 2014, Talley cited Unit member Sergio Cordoba for the same violation as reference in paragraph 7.
9. On or about November 7, 2014 a Village of Maywood administrative hearing officer held a hearing regarding the citations referenced in paragraphs 7 and 8.
10. At the hearing referenced in paragraph 9, the hearing officer found that Hawkins and Cordoba were not liable because, in accordance with Maywood Ordinance 70.01, officers operating an authorized emergency vehicle are not required to wear seatbelts.
11. At the hearing referenced in paragraph 9, the Union was informed that the Respondent recently amended the Ordinance referenced in paragraph 7 and/or paragraph 10 to no longer exempt any persons operating an authorized emergency vehicle from wearing a seatbelt.
12. The Maywood Village Board approved the amendment referenced in paragraph 11 on or about November 5, 2014.
13. On or about November 10, 2014 the Charging Party made a request to bargain over the decision and the effects of the amendment referenced in paragraphs 11 and 12.
14. To date, the Respondent has not responded to Charging Party's request to bargain.

15. The amendment referenced in paragraphs 11 and 12 concerns a mandatory subject of bargaining.

16. By its acts and conduct as referenced in paragraphs 11, 12 and 14, Respondent made a unilateral change to a mandatory subject of bargaining in violation of Sections 10(a)(4) and (1) of the Act.

### **III. CONCLUSIONS OF LAW**

By amending Maywood Municipal Ordinance 71.09 (Use of Seatbelts in a Motor Vehicle) and failing to respond to the Union's demand to bargain over the decision and effects of the amendment, the Village unilaterally changed a mandatory subject of bargaining in violation of Section 10(a)(4) and (1) of the Act.

### **IV. RECOMMENDED ORDER**

It is hereby ordered that the Respondent, Village of Maywood, its officers and agents shall:

A. Cease and desist from:

1. Implementing or enforcing the amendment to Maywood Municipal Ordinance 71.09 (Use of Seatbelts in a Motor Vehicle) approved on November 5, 2014;
2. Failing and refusing to bargain collectively in good faith with the Union concerning unit employees' wages, hours and other terms and conditions of employment;
3. In any like or related manner, interfering with, restraining or coercing its employees in the exercise of the rights guaranteed to them by Section 6 of the Act.

B. Take the following affirmative action necessary to effectuate the policies of the Act:

1. Reinstate and make whole any employees who were discharged, disciplined or otherwise adversely affected through application of the amendment;

2. Prior to implementation, give reasonable notice to the Union of any proposed changes that affect wages, hours or terms and conditions of employment of employees represented by the Union including any decision to implement Maywood Municipal Ordinance 71.09 (Use of Seatbelts in a Motor Vehicle);
3. Upon request, bargain collectively in good faith with the Union over the decision to implement Maywood Municipal Ordinance 71.09 (Use of Seatbelts in a Motor Vehicle) and the impact of that decision on unit employees' wages, hours and terms and conditions of employment;
4. Preserve and upon request make available to the Board or its agents all payroll and other records required to calculate the amount of back pay or other compensation to which unit employees may be entitled as set forth in this decision;
5. Post, at all places where notices to employees are normally posted, copies of the notice attached hereto and marked "Addendum." Copies of this notice shall be posted, after being duly signed, in conspicuous places, and be maintained for a period of 60 consecutive days. The Respondent will take reasonable efforts to ensure that the notices are not altered, defaced or covered by any other material; and
6. Notify the board in writing, within 20 days from the date of this Recommended Decision, of the steps the Respondents have taken to comply herewith.

**V. EXCEPTIONS**

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service

of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 7 days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed with Kathryn Nelson, General Counsel of the Illinois Labor Relations Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

**Issued in Chicago, Illinois on June 12, 2015**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

*/s/ Kelly Coyle*  
**Kelly Coyle  
Administrative Law Judge**

# NOTICE TO EMPLOYEES

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## FROM THE ILLINOIS LABOR RELATIONS BOARD

### S-CA-15-071 Addendum

The Illinois Labor Relations Board, State Panel is charged with protecting rights established under the Illinois Public Labor Relations Act, 5 ILCS 315 (2012). The Board has found that the Village of Maywood has violated Section 10(a)(4) and 10(a)(1) of the Act and has ordered us to post this Notice. We hereby notify you that the Illinois Public Labor Relations Act (Act) gives you, as an employee, these rights:

- To engage in self-organization
- To form, join or assist unions
- To bargain collectively through a representative of your own choosing
- To act together with other employees to bargain collectively or for other mutual aid and protection
- To refrain from these activities

The Act also states that a public employer cannot interfere with, restrain or coerce its employees in the exercise of these rights. The Act further imposes upon a public employer and the exclusive representative of a bargaining unit the duty to bargain collectively.

Accordingly, we assure you that:

WE WILL cease and desist from:

- a. Implementing or enforcing the amendments to Maywood Municipal Ordinance 71.09 (Use of Seatbelts in a Motor Vehicle) approved on November 5, 2014;
- b. Failing and refusing to bargain collectively in good faith with the **Illinois Council of Police** concerning unit employees' wages, hours and other terms and conditions of employment;

WE WILL reinstate and make whole any of those same employees who were discharged, disciplined or otherwise adversely affected through application of the amendment to Maywood Municipal Ordinance 71.09 (Use of Seatbelts in a Motor Vehicle) approved on November 5, 2014.

WE WILL bargain collectively in good faith with the **Illinois Council of Police**.

## ILLINOIS LABOR RELATIONS BOARD

One Natural Resources Way, First Floor

Springfield, Illinois 62702

(217) 785-3155

160 North LaSalle Street, Suite S-400

Chicago, Illinois 60601-3103

(312) 793-6400

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**THIS IS AN OFFICIAL GOVERNMENT NOTICE  
AND MUST NOT BE DEFACED.**

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