

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

Laborers' International Union of)	
North America, Local 477,)	
)	
Petitioner)	
)	
and)	Case No. S-UC-12-036
)	
Village of Southern View,)	
)	
Employer)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On March 5, 2012, Laborers' International Union of North America, Local 477 (Petitioner) filed a unit clarification petition in the above-captioned case with the State Panel of the Illinois Labor Relations Board (Board) pursuant to the Illinois Public Labor Relations Act, 5 ILCS 315 (2010), as amended (Act), and the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin Code, Parts 1200 through 1240 (Rules). The Petitioner seeks to include persons in the title of sergeant employed by the Village of Southern View (Employer) in the existing S-RC-12-030 bargaining unit, currently represented by the Petitioner.

I. BACKGROUND

On March 5, 2012, Board Case Manager, Lori Novak, mailed a letter to the Employer stating:

If you have any objections to the unit clarification requested in the petition, you must file a response within 20 days of service of this petition. If the Investigator fails to receive such response setting forth your position, you will have waived your objections and your right to hearing. After an investigation of this petition, the Executive Director will either issue an order clarifying the unit, dismiss the petition or set the matter for hearing. Meanwhile, the employees involved must

be advised that this petition has been filed. Accordingly, the Board requires that the employer post the enclosed "Notice to Employees" in conspicuous places where these employees work. The Notice is to be posted for a period of 20 days. Kindly and immediately return to the Investigator the enclosed Certification of Posting.

On March 15, 2012, the Board received the Certification of Posting from the Employer, as well as a Notice of Appearance. The Employer, however, did not include any objections or a response setting forth its position. Service of Ms. Novak's letter, the unit clarification petition, and affidavit of service of the unit clarification petition were presumed complete 3 days after mailing on March 8, 2012. Therefore, the Employer had until March 27, 2012 to file an objection to the unit clarification petition.

On April 6, 2012, the undersigned issued to the Employer an Order to Show Cause not later than April 13, 2012 why, consistent with Section 1210.170 of the Board's Rules, the Executive Director should not consider the Employer to have waived its objections and right to hearing. The Employer has failed to respond to the Order to Show Cause. To date, the Board has not received an objection to the unit clarification petition or a response setting forth the Employer's position.

II. DISCUSSION AND ANALYSIS

An employer is responsible for assisting the Board in investigating representation petitions. Village of Mahomet, 26 PERI ¶150 (IL LRB-SP 2011), citing State of Illinois, Department of Central Management Services, 24 PERI ¶112 (IL LRB-SP 2008). The Board has held that a representation hearing will not be conducted in the "absence of sufficient credible facts reasonably indicating that a petition may not be appropriate." Village of Mahomet, 26 PERI ¶150, citing Pace South Division, 13 PERI ¶2037 (IL SLRB 1997). Further, the Board has

held that a party's failure to make such a showing may result in a waiver of objections to the petition itself or to the scope of the sought-for bargaining unit. Village of Mahomet, 26 PERI ¶150.

In this case, the Employer has failed to provide a response setting forth its position and/or objections. The Employer's failure to respond to the petition constitutes a waiver of its objections and right to hearing. Thus, I find that the unit should be clarified to include the petitioned-for title.

III. CONCLUSIONS OF LAW

I find that the Employer has waived its objections and right to hearing. I find that the Laborers' International Union of North America, Local 477 unit certified in Case No. S-RC-12-030, should be clarified to include the petitioned-for title.

IV. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Laborers' International Union of North America, Local 477 unit certified in Case No. S-RC-12-030, be clarified to include the title of sergeant.

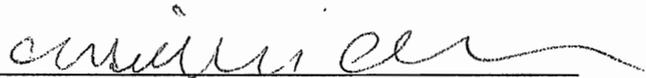
V. EXCEPTIONS

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 14 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 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 5 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 the Board's General Counsel at 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 14-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois, this 19th day of April, 2012.

**STATE OF ILLINOIS
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Michelle N. Owen
Administrative Law Judge

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Laborers' International Union of
North America, Local 477,

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and

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Case No. S-UC-12-036

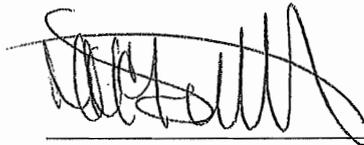
DATE OF
MAILING: April 19, 2012

AFFIDAVIT OF SERVICE

I, Melissa L. McDermott, on oath, state that I have this 19th day of April, 2012, served the attached **ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER** issued in the above-captioned case on each of the parties listed herein below by depositing, before 5:00 p.m., copies thereof in the United States mail at 100 West Randolph Street, Chicago, Illinois, addressed as indicated and with postage for regular mail.

Kent Gray
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Brad Schaive
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North America, Local 477
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Springfield, IL 62702



Melissa L. McDermott

SUBSCRIBED and **SWORN** to
before me, April 19, 2012

NOTARY PUBLIC

