

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF DETROIT, (WATER & SEWERAGE DEPARTMENT),
Respondent – Public Employer,

Case No. C00 E-96

-and-

ASSOCIATION OF DETROIT ENGINEERS,
Charging Party – Labor Organization.

APPEARANCES:

Bruce A. Campbell, Esq., City of Detroit Law Department

Mary Ellen Gurewitz, Esq., Sachs, Waldman, O'Hare, Bogas & McIntosh

DECISION AND ORDER

On October 29, 2001, Administrative Law Judge Nora Lynch issued her Decision and Recommended Order in the above matter finding that Respondent has not engaged in and was not engaging in certain unfair labor practices, and recommending that the Commission dismiss the charges and complaint as being without merit.

The Decision and Recommended Order of the Administrative Law Judge was served on the interested parties in accord with Section 16 of the Act.

The parties have had an opportunity to review the Decision and Recommended Order for a period of at least 20 days from the date of service and no exceptions have been filed by any of the parties.

ORDER

Pursuant to Section 16 of the Act, the Commission adopts the recommended order of the Administrative Law Judge as its final order.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Ott, Commission Member

Dated: _____

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DECISION AND RECOMMENDED ORDER
OF
ADMINISTRATIVE LAW JUDGE

Pursuant to the provisions of Sections 10 and 16 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.210, MSA 17.455(10), this matter came on for hearing at Detroit, Michigan, on January 10, 2001, before Nora Lynch, Administrative Law Judge for the Michigan Employment Relations Commission. The proceedings were based upon unfair labor practice charges filed on May 25, 2000, by the Association of Detroit Engineers, alleging that the City of Detroit had violated section 10 of PERA. Based upon the record, including the transcript of testimony received on January 22, 2001, the undersigned makes the following findings of fact and conclusions of law and issues the following recommended order pursuant to Section 16(b) of PERA:

The Charge:

The charge alleges the following:

Since on or about March 1, 2000, the above-named employer has and continues to refuse to bargain in good faith by refusing to provide information and documents requested by the charging party labor organization and necessary to the discharge of its responsibilities as bargaining representative, namely (1) City of Detroit's findings with respect to the investigation of Iqbal Qidwai, including any and all information received from the State of Michigan and (2) copies of all active applications for employment in the classification of Associate Engineer.

Facts:

The Association of Detroit Engineers represents a bargaining unit of engineers employed by the City of Detroit. The President of the Association is Marvin Woods.

On March 22, 2000, Woods filed a grievance regarding the discharge of Iqbal Qidwai, a senior assistant civil engineer with the Detroit Water and Sewerage Department. Qidwai was discharged for filing a false document indicating that he had passed the State of Michigan professional engineer's exam. In a letter to Director Stephen Gordon, Woods asked for a copy of any and all documents used in or related to the department's investigation of Qidwai.

Craig Stanley, Engineering Support Manager, had previously written to the State of Michigan Board of Professional Engineers on March 15, 2000, to verify license numbers for the engineers working for the department, enclosing a typed chart of professional engineers and their license or PE number. Stanley testified that in response, he received his communication back with dates of license expiration handwritten on the chart. Qidwai's name did not appear on the document.

In April of 2000, at the step three hearing on the Qidwai grievance, Stanley gave a copy of this correspondence to Woods. According to Woods, because the response was partially handwritten and did not look like a typical computer-generated form from the State, he wrote to labor relations on April 17, 2000, stating in part:

With regard to Mr. Qidwai, we have reviewed the documents given to us after the Step III hearing. The table forwarded to us as the State of Michigan's response to Mr. Craig Stanley's March 15, 2000, information request is not on State of Michigan letterhead. As we are unclear to its authenticity we request written confirmation that this document is the complete, unedited and unaltered response and we also request that any and all transmittal letters associated with this table be forwarded to this Association. If this table was in fact transposed from some other document(s) sent by the State of Michigan we again request of all these documents in their complete, unedited and unaltered form. As we have made this request from the onset we are prepared to obtain all related documents via order of the court.

Woods subsequently had brief conversations with Stanley regarding the documentation and Stanley responded that he had given Woods everything received from the State. In response to Woods' concerns, Stanley wrote again to the State's Board of Professional Engineers on October 2, 2000, asking that it verify that the data on the list was provided by the State. Stanley also wrote the following letter to Woods on November 2, 2000:

Per your request, please be advised that the information you received from my office regarding the verification of Professional Engineering Licenses was "unedited, unaltered, and complete."

After writing the above letter to Woods, on November 6, 2000, Stanley received a communication from the State's Board of Professional Engineers, indicating that the attached list of professional engineers had been forwarded to them for verification in October that year.

On November 16, 2000, Woods wrote to the State asking that they verify that the information the Union previously received from the City had actually been sent by the State. Licensing Administrator Jack Sharpe responded to Woods by letter of November 27, 2000, stating that he recalled releasing documents similar to those Woods was questioning, but that since copies of their transmittal had been discarded he could not state with certainty that Woods had accurate copies of what was mailed by their office.

Discussion and Conclusions:

As clarified at hearing, the dispute in this case concerns the information furnished by the State Board of Professional Engineers regarding professional engineering licenses. Charging Party asserts that in response to the Union's information request, the Employer supplied information that appeared to be of questionable validity; the Employer's subsequent failure to satisfy the Union about the accuracy and completeness of the information furnished is a violation of PERA. The Employer contends that it met its bargaining obligation by supplying the information requested by the Union and verifying its source.

In order to meet its bargaining duty under section 10(1)(e) of PERA, an employer must furnish a union in a timely fashion information requested for purposes of collective bargaining and contract administration. *Wayne County*, 1997 MERC Lab Op 679; *City of Battle Creek*, 1996 MERC Lab Op 538. It is not necessary that the information requested be dispositive of an issue, it simply needs to have some bearing on it. *SMART*, 1993 MERC Lab Op 355. In the instant case the Employer responded to the Union's information request in a timely manner and verified its source and authenticity to the best of its ability. I find that the Employer acted reasonably under the circumstances and no violation of PERA is established by this record. I therefore recommend that the Commission issue the following order:

RECOMMENDED ORDER

It is hereby ordered that the unfair labor practice charge filed in this matter be dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch
Administrative Law Judge

DATED: _____

