

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

In the Matter of:

CITY OF PONTIAC,
Respondent-Public Employer,

Case No. C04 G-189

-and-

MICHIGAN ASSOCIATION OF POLICE,
Charging Party-Labor Organization.

APPEARANCES:

Keller Thoma, P.C., by Bruce M. Bagdady, Esq., for the Public Employer

Pierce, Duke, Farrell, Mengel & Tafelski, P.L.C., by M. Catherine Farrell, Esq., for the Labor Organization

**ORDER DENYING MOTION FOR RECONSIDERATION AND
MOTION TO STAY DECISION AND ORDER**

On June 28, 2006, we issued our Decision and Order in the above-captioned matter finding that Respondent City of Pontiac violated Sections 10(1)(a) and (e) of the Public Employment Relations Act (PERA), 1965 PA 379 as amended, MCL 423.210(1)(a) and (e) by failing to bargain in good faith and by interfering with employees' rights guaranteed by Section 9. On July 18, 2006, Respondent filed a Motion for Reconsideration or, in the Alternative, to Stay Decision and Order, and a Brief in Support. Charging Party filed a timely Motion and Brief in Opposition to Respondent's Motion on August 3, 2006.

Respondent also seeks oral argument in this matter. After reviewing the briefs filed by the parties, we find that oral argument would not materially assist us in deciding this case. Therefore, Respondent's request for oral argument is denied.

In its Motion for Reconsideration, Respondent contends that this Commission violated its procedural due process rights by finding that its failure to notify Charging Party of its decision to reject the parties' tentative agreement violated PERA. This conclusion, Respondent asserts, was not alleged in the unfair labor practice charge, was not sufficiently litigated during the hearing, and is not supported by the evidence in the record. Alternatively, Respondent requests that we stay our Order pending appeal. Charging Party responds that its unfair labor practice charge broadly referred to

Respondent's failure to bargain in good faith and that the unfair labor practice charge and hearing provided Respondent with adequate due process. For the reasons set forth below, we deny Respondent's Motion for Reconsideration.

Because the Respondent never took unequivocal action to accept or reject a tentative agreement that had been ratified by the Union, we ordered it to cease and desist from refusing to bargain "by failing to accept or reject the tentative agreement in a timely and proper manner." Implicit in the duty to accept or reject an agreement in a timely and proper manner is the obligation to give notice of the decision to accept or reject. Because Respondent's Motion for Reconsideration merely presents the same issue that we previously decided, the motion is denied.

Having denied Respondent's Motion for Reconsideration, we decline to stay our Order because a stay is available only by court order under MCL 424.216(f).

ORDER

Respondent's Motion for Reconsideration or, in the Alternative, to Stay Decision and Order, is denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Nora Lynch, Commission Chairman

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____