

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

In the Matter of:

KENT COUNTY (GERALD R. FORD
INTERNATIONAL AIRPORT),
Public Employer,

Case No. R07 C-028

-and-

GERALD R. FORD INTERNATIONAL AIRPORT
COMMAND ASSOCIATION,
Labor Organization - Petitioner.

APPEARANCES:

Thomas L. Drenth, Esq., for the Public Employer

Douglas M. Gutscher, Esq., for the Petitioner

DECISION AND ORDER

Pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212, this case was heard on May 17, 2007, before Doyle O'Connor, Administrative Law Judge of the State Office of Administrative Hearings and Rules, acting on behalf of the Michigan Employment Relations Commission. Pursuant to Sections 13 and 14 of PERA, and based upon the entire record, including the transcript of hearing and briefs filed by the parties on or before June 18, 2007, the Commission finds as follows:

The Petition:

In the petition, filed on March 1, 2007, the Gerald R. Ford International Airport Command Association (the Union) sought certification as the exclusive representative of a new supervisory bargaining unit including all "command officers employed by the Gerald R. Ford International Airport Police Department." The parties consented to an election for a unit of "all airport law enforcement supervisors," consisting of four individual positions, with the Commission to determine whether the unit would also include the position of airport security coordinator. The individual holding the position of airport security coordinator was allowed

to vote on a challenged ballot basis. The Union was subsequently certified based on receiving a majority of votes in the mail ballot election conducted by the Commission.

Position of the Parties and Findings of Fact:

Background

The Gerald R. Ford International Airport is operated by Kent County (the County or the Employer) through its Department of Aeronautics. The airport public safety and operations director, Robert Benstein, manages three work units: airfield operations; aircraft rescue/firefighting; and airport law enforcement. The third unit, airport law enforcement, is at issue here and is headed by the “chief airport law enforcement officer,” commonly referred to as the “police chief.” Reporting to the police chief are the four airport law enforcement supervisors and the sole airport security coordinator (coordinator). No other supervisory personnel report to the police chief.

Prior to a 2004 reorganization, the four airport law enforcement supervisors and the coordinator were all considered non-supervisory. At that time, they were all uniformed police sergeants included in a wall-to-wall non-supervisory bargaining unit of general county employees represented by UAW Local 2600, which included police officers and sergeants. As part of the reorganization, the five sergeant positions were given additional supervisory duties, removed from the UAW unit, and given new titles. All of their subordinates are in the UAW Local 2600 unit.

While all the County’s non-supervisory employees are unionized, there is no existing county-wide or airport-specific unit of unionized supervisory employees. Petitioner seeks to include the coordinator position in its new supervisory unit. However, the Employer opposes inclusion and contends that the position does not have a community of interest with the airport law enforcement supervisor positions of which the unit is composed. The Employer asserts that the coordinator position would be more appropriately placed in a county-wide or airport-wide supervisory unit.

The Airport Law Enforcement Supervisor Classification

The airport law enforcement supervisors are police sergeants. Each of them is part of the Kent County management pay plan (MPP) and is paid at MPP grade 22. They are referred to as sergeants and each one provides routine supervision for a shift of about four police officers on twelve hour shifts in a twenty-four hours per day, seven days per week operation. The sergeants report directly to the police chief. Even though employed directly by the airport rather than by a police or sheriff department, the sergeants are required to be certified as police officers by the Michigan Commission on Law Enforcement Standards (MCOLES), and they work in uniform. The officers that they supervise provide routine criminal law enforcement services.

The job description for the airport law enforcement supervisors provides, in pertinent

part, that the position:

Administers policies and procedures for; hires; provides training, schedules and work direction for; evaluates the performance of and fulfills other supervisory functions for Airport Law Enforcement Officers.

Under the heading “required knowledge and skills,” the job description mandates as a prerequisite:

Working knowledge of the principles and practices of supervision and management.

Under the heading “contacts,” candidates are advised that the position has frequent contact with:

Airport operations and maintenance staff to exchange information and to implement TSA security and FAA safety directives requiring changes in operating procedures and/or physical features of the facility.

Union representatives to administer collective bargaining agreements for subordinate staff.

The job description indicates that an associate’s degree plus three years of progressively responsible law enforcement experience, or an equivalent combination of education and experience, are required. However, a bachelor’s degree and prior supervisory experience are preferred.

The Airport Security Coordinator Classification

The sole incumbent airport security coordinator was formerly one of the police sergeants. He is, like those sergeants, part of the Kent County management pay plan (MPP); and is paid at MPP grade 22. The fringe benefits are identical for all county supervisors. Although the position is not required to be filled by an MCOLES certified police officer, the incumbent is allowed to maintain his status with MCOLES. He may, at his option, work in his sergeant uniform, but he is not required to do so. The only staff person that he supervises is a clerk typist. Like the sergeants, he reports directly to the police chief. The coordinator works an eight hour, Monday to Friday schedule, as does the police chief. The coordinator is responsible for airport security planning and implementation, including doing the background checks for all regular airport personnel and for outside contractors working in secure areas of the airport.

The primary function of the coordinator is to serve as the interface between the Federal Transportation Security Administration (TSA) and the airport management and its police department. The coordinator is responsible for creating and updating the airport’s security compliance program and the airport security contingency plan, which lays out

specific responses for both the airport police and private security contractors.

The current coordinator routinely fills in for absent airport police sergeants and serves as supervisor over the police officers on that shift on those occasions. However, this function is not a part of the standard job description and occurs only because the incumbent happens to be a former police sergeant.

The job description for the coordinator includes certain duties and prerequisites that are, in relevant part, nearly indistinguishable from those in the airport law enforcement supervisors' job description:

Administers policies and procedures for; hires; provides training, schedules and work direction for; evaluates the performance of and fulfills other supervisory functions for subordinate staff.

Under the heading "required knowledge and skills," the job description mandates as a prerequisite:

Working knowledge of the practices and principles of supervision and management.

Under the heading "contacts," candidates are advised that the position has frequent contact with:

Airport operations, law enforcement, and maintenance personnel to exchange information and to implement TSA security directives requiring changes in operating procedures and/or physical features of the facility.

Union representatives to administer collective bargaining agreements for subordinate staff.

The job description requires a bachelor's degree with two years of progressively responsible experience in airport operations or administration or an equivalent combination of training and experience. As with the airport law enforcement supervisor position, prior supervisory experience is preferred.

Discussion and Conclusions of Law:

A primary objective of the Commission is to create the largest unit that, in the circumstances presented, is compatible with the purposes of the Act and that includes in a single bargaining unit all employees who share a community of interest. *Hotel Olds v State Labor Mediation Bd*, 333 Mich 382 (1952). Further, the Commission's policy is to avoid leaving positions unrepresented whenever possible. *Glen Oaks Cmty Coll*, 16 MPER 72 (2003). Even where a position in dispute may share a community of interest with employees in a residual group, the Commission does not determine relative degrees of community of

interest. *Washtenaw Cmty Coll*, 17 MPER 29 (2004).

A community of interest is properly determined by looking at a number of factors, none of which are paramount, including: similarity of duties, skills, and working conditions; similarities in wages and employee benefits; amount of interchange or transfer between groups of employees; centralization of the employees' administrative and managerial functions; and the degree of central control of labor relations or common supervision. *Lenawee Intermediate Sch Dist*, 16 MPER 48 (2003).

The five positions in question are all first line supervisors and constitute the entire supervisory workforce reporting to the airport police chief. All other supervisors in the airport report to the civilian chain of command and not to the police chief. The subordinates of all five supervisors belong to a single non-supervisory bargaining unit represented by one union local. The five positions collectively supervise the entire workforce of the airport police department. Each position supervises a small workforce, ranging from one to four individuals.

The incumbent in the coordinator position has routinely filled in for the other supervisory positions in the unit. Additionally, the salaries and benefits for the five positions are identical. All are involved in the various aspects of maintaining the peace and controlling access in a modern secured airport, including taking action pursuant to contingency plans drafted by the coordinator. All wear, or are entitled to wear, the uniform of the airport police department. The minimum experience requirements for the two classifications are similar and their anticipated day-to-day contacts with other airport personnel are similar as well.

There are certainly differences between the two classifications. Only the law enforcement supervisor classification requires MCOLES certification and only that classification is routinely armed. The coincidence that the incumbent coordinator has a law enforcement background and certification is irrelevant to determining unit placement, for it is the regular duties and minimum qualifications of the positions that are determinative, not those of the current incumbents. The law enforcement supervisors work varying twelve hour shifts and holidays, reflecting the twenty-four hours per day, seven days per week nature of their operation, while the coordinator routinely works an eight hour, Monday through Friday schedule. However, the requirement that different employees within a single bargaining unit have a community of interest does not mean they must have identical interests and some variance is to be expected. *Troy Sch Dist*, 21 MPER___ (Case No. R08 A-017, issued July 15, 2008).

The Employer proposes that the coordinator be excluded from the unit, suggesting that it would more appropriate to include the position in a unit of all airport supervisors. However, the suggestion that the coordinator position might share a community of interest with such a bargaining unit does not negate a finding that the coordinator and the law enforcement supervisors share a community of interest. *Washtenaw Cmty Coll*, 17 MPER 29 (2004).

The petition proposes an appropriate unit of all supervisory personnel in the airport police department. The positions have similar conditions of employment and share common supervision. They share a common task of providing and enforcing security arrangements in the airport. Furthermore, there exists no other unit appropriate for placement of the coordinator position, which, absent inclusion in this unit, would be left without representation. Inasmuch as it is Commission policy to avoid leaving positions unrepresented, the position of airport security coordinator must be added to Petitioner's bargaining unit, with which it shares a community of interest. See *Riverview Cmty Sch*, 16 MPER 51 (2003); *Lake Superior State Univ*, 17 MPER 9 (2004).

In accord with the findings of fact, discussion, and conclusions of law above, we issue the following order.

ORDER

We hereby amend the Certification of Representative issued July 23, 2007, to provide that the Gerald R. Ford International Airport Command Association is the exclusive representative of the following unit:

All Gerald R. Ford International Airport Law Enforcement Supervisors and Airport Security Coordinators. Excluding: Police Chief and all others.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Christine A. Derdarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____