

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

In the Matter of:

CITY OF FLINT (POLICE DEPT),
Public Employer-Respondent,

-and-

POLICE OFFICERS LABOR COUNCIL (FLINT POLICE
SERGEANTS ASSOCIATION),
Labor Organization-Charging Party in Case No. C07 B-022,

-and-

POLICE OFFICERS LABOR COUNCIL (FLINT POLICE CAPTAINS
AND LIEUTENANTS ASSOCIATION),
Labor Organization-Charging Party in Case No. C07 B-023.

APPEARANCES:

Nemeth Burwell, P.C., by Frederic E. Champnella II, Esq. and Joseph R. Furton, Jr., Esq., for the Respondent

Thomas R. Zulch, Esq., for the Charging Parties

**DECISION AND ORDER DENYING
MOTION FOR RECONSIDERATION**

On December 21, 2009, the Commission issued its Decision and Order in the above-entitled matter, finding that Respondent, City of Flint, committed an unfair labor practice when it filled positions in the newly created Citizens Service Bureau without following promotional procedures agreed upon with Charging Parties. We found this to be a violation of Respondent's duty to bargain under Section 10(1)(e) of the Public Employment Relations Act (PERA), 1965 PA 379 as amended, MCL 423.210(1)(e).

Respondent filed a motion for reconsideration of our Decision and Order on January 11, 2010, and submitted a supplementary brief in support of the motion. On January 22, 2010, Charging Parties submitted a response to the motion.

Rule 167 of the Commission's General Rules, 2002 AACCS, R 423.176, governs motions for reconsideration and states in pertinent part:

A motion for reconsideration shall state with particularity the material error claimed. . . . Generally, and without restricting the discretion of the commission, a motion for reconsideration which merely presents the same issues ruled on by the commission, either expressly or by reasonable implication, will not be granted. (Emphasis added)

In its motion for reconsideration, Respondent essentially restates an argument presented in its exceptions to the ALJ's Decision and Recommended Order that the relief to be granted by our Decision and Order of December 21, 2009 is moot. This argument was carefully considered, discussed and dismissed in our Decision and Order and does not provide us with a basis for reconsideration of that Order. See *City of Detroit Water & Sewerage Dep't*, 1997 MERC Lab Op 453, in which the Commission denied the charging party's motion for reconsideration where the charging party restated the same argument presented in his exceptions.

ORDER

The motion for reconsideration is denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Christine A. Dardarian, Commission Chair

Nino E. Green, Commission Member

Eugene Lumberg, Commission Member

Dated: _____