

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:	)	
	)	
SARAH VAN CLEVE	)	CASE 20725-E-06-3194
	)	
Bargaining unit of employees	)	DECISION 9604 - PECB
represented by:	)	
	)	
SEATTLE HOUSING AUTHORITY	)	ORDER DENYING MOTION
	)	FOR INTERVENTION
	)	

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On October 26, 2007, Sarah Van Cleve filed a petition for a question concerning representation with the Public Employment Relations Commission, seeking to decertify the International Union of Operating Engineers, Local 286 (Local 286) as exclusive bargaining representative of property managers at Seattle Housing Authority (Employer). The Seattle/King County Building and Trades Council (Council) was permitted to participate in an investigation conference held on February 15, 2007 after filing a motion for intervention. The resulting investigation statement framed issues as to the involvement of the Council in this case.

Local 286 was certified as exclusive bargaining representative for the petitioned-for employees on July 10, 2001, *Seattle Housing Authority*, Decision 7445-A, (PECB, 2001). The Council is an entity composed of several unions that have joined together for the purposes of consolidated collective bargaining. Thereafter, in order to facilitate the collective bargaining process with the employer, Local 286 entered into a multi-union arrangement with the Council to negotiate with the employer on Local 286's behalf. Local 286 is signatory to the latest agreement negotiated by the

Council that included the property managers. That agreement expired on September 30, 2006.

### ISSUE

Is the Council entitled to intervention as the incumbent exclusive bargaining representative of the petitioned-for positions?

The Executive Director rules that the Council is not entitled to intervention as the incumbent exclusive bargaining representative under WAC 391-25-170.

### APPLICABLE LEGAL STANDARDS

The representation case concerning property managers of the Seattle Housing Authority arises under the Public Employees' Collective Bargaining Act, Chapter 41.56. RCW. The Legislature delegated the determination and modification of appropriate bargaining units to the Commission in RCW 41.56.060; the Legislature delegated the conduct of representation proceedings to the Commission in RCW 41.56.060 and .070.

Local 286 obtained certification under 41.56.80 as the exclusive bargaining representative of property managers employed by the employer following a cross-check conducted pursuant to WAC 391.25.391 wherein a majority of those employees chose to be represented by Local 286.

### Analysis

The fact that Local 286 was party to a multi-union agreement and assigned its bargaining rights to the Council to negotiate with the

employer on its behalf, did not constitute a transfer of Local 286's certification as exclusive bargaining representative to the Council. A certification that is obtained as a result of employees choosing to be represented by a particular labor organization cannot be "gifted" or transferred. In contrast, assignment of bargaining rights to a multi-union association, herein the Council, can be withdrawn at appropriate times. *Retail Associates, Inc.*, 120 NLRB 388 (1958). Accordingly, Local 286 remains the exclusive collective bargaining representative for the property managers employed by Seattle Housing Authority.

The collective bargaining agreement between the Council and employer expired on September 30, 2006, so there can be no claim of a contract bar.

NOW, THEREFORE, it is

ORDERED

1. The motion of the Seattle/King Building and Construction Trades Council for intervention is DENIED.
2. The case is remanded to the Representation Coordinator to conduct an election on whether the majority of employees wish to continue representation by Local 286.

DATED at Olympia, Washington, this 8th day of March, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



CATHLEEN CALLAHAN, Executive Director

This order may be appealed by filing timely objections with the Commission under WAC 391-25-590.