STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

LONGVIEW POLICE GUILD,	)	CASE 15382-U-00-3888
	)	DECISION 7315 - PECB
Complainant,	)	
	)	CASE 15409-U-00-3897
vs.	)	DECISION 7316 - PECB
	)	
CITY OF LONGVIEW,	)	CASE 15424-U-00-3899
	)	DECISION 7317 - PECB
Respondent.	)	
	)	PARTIAL DISMISSAL AND
	)	ORDER FOR FURTHER
	)	PROCEEDINGS

The Longview Police Guild (union) filed three complaints charging unfair labor practices in the above-referenced matters with the Public Employment Relations Commission. The complaints allege that the City of Longview (employer) violated RCW 41.56.140(1), (2), and (4).

The union's first complaint was filed on September 15, 2000. See, Case 15382-U-00-3888. The complaint alleged that the employer dominated or assisted the union in violation of RCW 41.56.140(2), by forcing the union to participate in an employer retreat.

The union's second complaint was filed on September 29, 2000. See, Case 15409-U-00-3897. The complaint alleged that the employer interfered with employee rights in violation of RCW 41.56.140(1), and dominated or assisted the union in violation of RCW

41.56.140(2), by threatening employee layoffs if the union requested a federal audit concerning staffing monies.

The union's third complaint was filed on October 9, 2000. See, Case 15424-U-00-3899. The complaint alleged that the employer interfered with employee rights in violation of RCW 41.56.140(1), dominated or assisted the union in violation of RCW 41.56.140(2), and refused to bargain in violation of RCW 41.56.140(4), by public comments about the union's leadership made by the chief of police.

The complaints were reviewed under WAC 391-45-110.[1] A preliminary ruling and deficiency notice was issued on January 4, 2001. In relation to the first complaint, the preliminary ruling and deficiency notice indicated that it appeared that an unfair labor practice violation could be found. For the second complaint, the preliminary ruling and deficiency notice stated that it was not possible to conclude that a cause of action existed, as the allegations of the complaint did not involve the union's collective bargaining responsibilities under Chapter 41.56 RCW.

In regards to the third complaint, the preliminary ruling and deficiency notice stated that is was not possible to conclude that a cause of action existed for the allegations of domination or assistance of the union in violation of RCW 41.56.140(2), or employer refusal to bargain in violation of RCW 41.56.140(4). The preliminary ruling and deficiency notice commented that none of the facts alleged in the third complaint suggested that the employer

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[1] At this stage of the proceedings, all of the facts alleged in the complaints are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaints state a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

had involved itself in the internal affairs or finances of the union, or that the employer had attempted to create, fund, or control a "company union". See, *City of Anacortes*, Decision 6863 (PECB, 1999). The preliminary ruling and deficiency notice stated that in relation to the refusal to bargain allegations, the third complaint did not involve the employer negotiating directly with bargaining unit employees, or the employer divulging information that had not already been shared with the union during negotiations. The preliminary ruling and deficiency notice indicated that the interference allegations of the third complaint under RCW 41.56.140(1) appeared to state a cause of action, and would be assigned to an examiner for further proceedings under Chapter 391-45 WAC, after the union had an opportunity to respond to the preliminary ruling and deficiency notice.

The preliminary ruling and deficiency notice advised the union that amended complaints could be filed and served within 21 days following such notice, and that any materials filed as amended complaints would be reviewed under WAC 391-45-110 to determine if they stated a cause of action. The preliminary ruling and deficiency notice further advised the union that in the absence of timely amendments stating a cause of action, the second complaint (Case 15409-U-00-3897) and the allegations of employer domination or assistance of the union in violation of RCW 41.56.140(2), and employer refusal to bargain in violation of RCW 41.56.140(4) in the third complaint (Case 15424-U-00-3899), would be DISMISSED. Nothing further has been received from the union.

The preliminary ruling and deficiency notice informed the employer and union that it appeared that the complaints should be consolidated for further proceedings and that if either party objected to consolidation, they should make their views known during the 21-day

period provided in the notice. Neither party filed any objection to consolidation of the complaints. The complaints are hereby consolidated for further processing under Chapter 41.56 RCW.

NOW THEREFORE, it is

ORDERED

1. Assuming all of the facts alleged to be true and provable, the allegations of the first complaint (Case 15382-U-00-3888) state a cause of action, summarized as follows:

> Employer domination or assistance of union in violation of RCW 41.56.140(2), by forcing the union to participate in an employer retreat.

These allegations will be the subject of further proceedings under Chapter 391-45 WAC.

2. Assuming all of the facts alleged to be true and provable, the interference allegations of the third complaint (Case 15424-U-00-3899) state a cause of action, summarized as follows:

> Employer interference with employee rights in violation of RCW 41.56.140(1), by public comments about the union's leadership made by the chief of police.

These allegations will be the subject of further proceedings under Chapter 391-45 WAC.

3. The City of Longview shall:

File and serve its answer to the allegations listed in paragraphs 1 and 2 of this Order, within 21 days following the date of this Order.

An answer shall:

a. Specifically admit, deny or explain each fact alleged in the complaints, except if a respondent states it is without knowledge of the fact, that statement will operate as a denial; and

b. Assert any affirmative defenses that are claimed to exist in the matters.

The answer shall be filed with the Commission at its Olympia office. A copy of the answer shall be served on the attorney or principal representative of the person or organization that filed the complaints. Service shall be completed no later than the day of filing. Except for good cause shown, a failure to file an answer within the time specified, or the failure to file an answer to specifically deny or explain a fact alleged in the complaints, will be deemed to be an admission that the fact is true as alleged in the complaints, and as a waiver of a hearing as to the facts so admitted. See, WAC 391-45-210.

4. The allegations of the second complaint (Case 15409-U-00-3897) are DISMISSED for failure to state a cause of action. The allegations of the third complaint (Case 15424-U-00-3899) concerning employer domination or assistance of the union in violation of RCW 41.56.140(2), and employer refusal to bargain

in violation of RCW 41.56.140(4) are DISMISSED for failure to state a cause of action.

ISSUED at Olympia, Washington, this 15th day of March, 2001.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARK S. DOWNING, Director of Administration

Paragraph 4 of this order will be the final order of the agency on any defective allegations, unless a notice of appeal is filed with the Commission under WAC 391-45-350.