City of Mabton, Decision 10323 (PECB, 2009)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

TEAMSTERS LOCAL 760,	)	
	)	
Complainant,	)	CASE 21706-U-08-5535
	)	
vs.	)	DECISION 10323 - PECB
	)	
CITY OF MABTON,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
Respondent.	)	AND ORDER
	)	

Reid, Pedersen, McCarthy & Ballew, by *David W. Ballew*, Attorney at Law, for the union.

The Wesley Group, by *Kevin Wesley*, Labor Relations Consultant, for the employer.

On May 9, 2008, Teamsters Local 760 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission, naming the City of Mabton (employer) as the respondent. A preliminary ruling was issued finding that the complaint stated causes of action for employer interference with employee rights and discrimination, by its layoff of Frank Tijerina in reprisal for union activities protected by Chapter 41.56 RCW.

A hearing was held on September 24, 2008, before Examiner Paul T. Schwendiman. The parties filed post-hearing briefs.

ISSUE PRESENTED

Did the employer discriminate against Frank Tijerina in violation of RCW 41.56.140(1), by laying him off in reprisal for engaging in protected union activities?

I conclude the employer discriminated against Tijerina in violation of RCW 41.56.140(1).

APPLICABLE LEGAL PRINCIPLES

RCW 41.56.040 provides:

> No public employer, or other person, shall directly or indirectly, interfere with, restrain, coerce, or discriminate against any public employee or group of public employees in the free exercise of their right to organize and designate representatives of their own choosing for the purpose of collective bargaining, or in the free exercise of any other right under this chapter.

Enforcement of those statutory rights by remedying employer interference and discrimination violations is through the unfair labor practice provisions of RCW 41.56.140(1):

> It shall be an unfair labor practice for a public employer:
>
> (1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

A discrimination violation under RCW 41.56.140(1) occurs when an employer takes action against an employee in reprisal for the exercise of employee rights protected by Chapter 41.56 RCW. In *Educational Service District 114*, Decision 4361-A (PECB, 1994), the Commission adopted the legal discrimination test established by the Supreme Court of the State of Washington in *Wilmot v. Kaiser Aluminum*, 118 Wn.2d 46 (1991), and *Allison v. Seattle Housing Authority*, 118 Wn.2d 79 (1991).

Under the Commission's test, the complainant must establish a prima facie case of discrimination by proving:

1. An employee exercised a right protected by the collective bargaining statute, or communicates to the employer an intent to do so.
2. The employee was deprived of some ascertainable right, status or benefit.

3. A causal connection exists between the protected union activity and the action claimed to be discriminatory.

Where a complainant establishes its prima facie case of discrimination, the employer need only articulate non-discriminatory reasons for its actions. *Educational Service District 114*, Decision 4361-A. The employer does not have the burden of proof of the nondiscriminatory reasons for its actions. *Port of Tacoma*, Decision 4626-A (PECB, 1995). The burden remains on the complainant to prove that the disputed action was in retaliation for the employee's exercise of statutory rights. That may be done by:

> 1. showing that the reasons given by the employer were pretextual; or
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> 2. showing that union animus was nevertheless a substantial motivating factor behind the employer's actions.

Seattle School District, Decision 9628-A (PECB, 2008).

ANALYSIS

Union's Prima Facie Case

I find the union proved all three elements of its prima facie case of discrimination:

1. Tijerina exercised a right protected by the collective bargaining statute. The employer admitted in its answer to the complaint knowing Tijerina served on the union negotiating

committee and as shop steward. The testimony confirms the admission and proves, as steward, he brought overtime nonpayment questions to Mayor Velva Herrera.

2. Tijerina was deprived of some ascertainable right, status or benefit. The employer admits in its answer it terminated Tijerina's employment by laying him off.

3. A causal connection exists between the protected union activity and the action claimed to be discriminatory.

To prove causation for Tijerina's termination, the union relies on testimony of City Councilperson Angel Reyna concerning a conversation Reyna had with former contract employee Linda Bowen in late March or early April 2008, as Reyna testified:

> [Bowen] had indicated to me that she had met with the Mayor and talked to the Mayor about firing Frank because he asked a lot of questions and he should be let go.

However, Mayor Herrera responded to Reyna's testimony, by indicating she, "Never had a conversation with Linda Bowen in regards to that." Given the mayor's denial, the ambiguity of whether it was Mayor Herrera or Bowen who was concerned about "Frank because he asked a lot of questions," and the hearsay nature of Reyna's testimony, I give no weight to Reyna's testimony to prove causation.

There is no other direct evidence sufficient to find causation. However, a union's prima facie case must ordinarily be shown by circumstantial evidence, since employers are not apt to announce discrimination as their motive. *Educational Service District 114*, Decision 4361-A.

The types of circumstantial evidence considered in making a prima facie discrimination case have been described by the Commission as follows:

> [T]he timing of the discharge, disparate treatment of other employees, whether established procedures (including contract procedures) were followed, the reasons given for the discharge, whether those reasons were given to the employee, any shift in those reasons on the part of the employer, and evidence from prior unfair labor practice proceedings. *See* generally, 1 Morris, The Developing Labor Law, 192 (2nd ed. 1983).

Seattle Public Health Hospital, Decision 1911-C (PECB, 1984).[1]

Based on analysis of the types of circumstantial evidence suggested by the Commission in *Seattle Public Health Hospital*, Decision 1911-C, I find there is sufficient evidence to establish causation.

Established Procedures Regarding Layoff Not Followed Tijerina's seniority was not considered in deciding to lay him off. Less-senior employees in his classification were not laid off.

Mabton personnel rule 2.8.2 reads "In determining who in any classification to be laid off, consideration is to be given to individual performance and then to seniority in the positions to be affected." Former City Administrator Ildia Heitzman confirmed that

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[1] *This case* was decided on the earlier "Wright Line" (*Wright Line*, 251 NLRB 1083 (1980), *enforced*, 662 F.2d 899 (1st Cir. 1981), *cert. denied*, 455 U.S. 989 (1982)) discrimination standard, rather than the current "Wilmot and Allison test" adopted in *Educational Service District 114*, Decision 4361-A. The earlier discrimination standard also involved making a prima facie case of discrimination. The types of circumstantial evidence specified in *Seattle Public Health Hospital* are not exclusive, but remain a reliable guide under the current discrimination test.

during her tenure from 1993 to August 2005, the personnel rule was technically in place. However, she testified that seniority was always the biggest factor used in determining who to lay off. She indicated that "the person that was laid off was always the last person hired" and "it [layoff within a classification] was always determined by seniority." Irrespective of the wording of personnel rule 2.8.2, I find that the *actual* policy of the employer was to consider seniority in laying off employees.

Mayor Herrera has been either a city councilperson or mayor continuously since 1993. Given her tenure with the employer, she probably had knowledge that all prior layoffs were determined considering seniority. Herrera also admitted that while she was deciding to lay off Tijerina she "was being told that there's the seniority in place."

In deciding to lay off Tijerina instead of a less-senior employee, Mayor Herrera admits that she "didn't look at the seniority." Thus, her total disregard of any consideration of seniority in making the layoff decision did not follow the established actual procedure of considering seniority before deciding who to lay off.

Timing of Tijerina's Termination The union was certified as the exclusive bargaining representative of a unit of office-clerical and public works employees by the Commission on February 26, 2007. *City of Mabton*, Decision 9597 (PECB, 2007). Tijerina became shop steward for the union soon thereafter and confronted the mayor about not paying employees for overtime.

Tijerina was the only unit employee serving on the union negotiating committee that met with Herrera. The committee met with Herrera at least five times attempting to negotiate the first union

contract. The negotiations had not produced an agreement by December 28, 2007, the day Tijerina was laid off.

The decision by the City Council that an employee would have to be laid off for budgetary reasons was made sometime between December 1 and 17, 2007. Notice of layoff to Tijerina from Mayor Herrera was dated December 17, 2007. Mayor Herrera thus determined to lay off Tijerina within a few days of the date the City Council decided a layoff was necessary. This was the Mayor's first opportunity during the ongoing contract negotiations to decide who must be laid off for budgetary reasons.

Reasons Given Tijerina for Layoff Were Misleading The stated reason in the layoff notice to Tijerina was "budgetary considerations." While budgetary considerations were a reason for the layoff, the employer's actual reason to decide to lay off Tijerina shifted after the union contested his layoff. The employer indicated that Tijerina was laid off due to his poor work performance, as indicated solely by his failure to pass a wastewater certification exam six times.

Disparate Treatment of Other Employees There is evidence of disparate treatment of other employees by the employer. The employer retained Noe Trujillo, another employee in the bargaining unit who was not a union activist and who had not even attempted to take his wastewater certification exam during his five-year tenure of employment. Trujillo was, unlike Tijerina, unable or unwilling to perform water testing at the wastewater treatment plant and perform all of the operation of the backhoe required of other public works employees.

More generalized disparate treatment of union-represented employees and nonunion employees is also in evidence. Prior to certification

of the union as representative of employees in the public works department, employees in both the public works department and the police department all received step increases in salaries. Step increases for the union-represented public works employees were discontinued after certification. The employer indicated financial difficulties and a desire to evaluate all of its employees as a reason to discontinue step increases. No evaluations were ever performed on either the union or nonunion employees. However, step increases were discontinued for the union-represented public works employees while being continued for the nonunion police officers.[2]

Prior Unfair Labor Practice Proceedings No prior unfair labor practices have been adjudicated.

The union has proven all three elements of its prima facie discrimination case. Tijerina exercised a right protected by the collective bargaining statute, he was deprived of some ascertainable right, and a causal connection exists between his protected union activity and his layoff.

The Employer's Reasons for Layoff

I find the evidence shows that the city council determined a layoff was necessary in the public works department for legitimate budgetary reasons. The employer's articulated non-discriminatory reason for deciding to lay off Tijerina is that he was the poorest

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[2] The union was later certified to represent the police officers on May 8, 2008. *City of Mabton*, Decision 10043-A (PECB, 2008). Denial of step increases has been dealt with as generalized disparate treatment. I note that continuing historic step increases are part of a "dynamic status quo" that should be maintained during bargaining. *See Lewis County Public Utility District*, Decision 7277-B (PECB, 2002); *Snohomish County*, Decision 1868 (PECB, 1984).

performing employee of the four employees in the public works department. The employer claims that its layoff decision was based solely on Tijerina's failure to pass the wastewater operators certification test six times.[3]

A question remaining is whether the reason given by the employer to select Tijerina for layoff was pretextual. Based on the record, I find the employer's articulated reason for laying off Tijerina was pretextual, designed to conceal the employer's true motive.

The record establishes Mayor Herrera was not concerned with Tijerina's general work performance and did not select him for layoff because of his general work performance. Tijerina was never reprimanded or counseled for poor performance. He performed all the duties of public works employees well and even trained new and temporary employees. The mayor's admitted concern about Tijerina's performance was solely that he failed to pass his wastewater operators certification test six times. I find Tijerina's general work performance was not a reason articulated by the employer for deciding to lay him off.

Failure to Pass the Wastewater Plant Operator Exam and Pretext The employer operates a wastewater treatment plant regulated by the Washington State Department of Ecology (Ecology).[4] Ecology requires that a certified operator of wastewater treatment plants

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[3] In its answer and opening statement, the employer also argued Tijerina failed to report to City-provided training and that he engaged in insubordinate behavior. However, its post-hearing brief noted that "[t]he decision to layoff Mr. Tijerina was based solely on his having failed his wastewater certification test **six times** during his tenure with the City." Emphasis in original.

[4] See Chapters 173-221 through -230 WAC.

be responsible for operation of the employer's wastewater plant. Fines are possible if the employer does not have a properly-certified operator responsible at all times for its wastewater treatment plant.

For many years only the most-senior public works department employee, Arturo DeLaFuente, was certified to operate the employer's wastewater treatment plant. DeLaFuente was hired in the 1980's. As a result of being the only certified employee, DeLaFuente could not take a vacation without violating Ecology regulations, unless the employer temporarily employed someone else who was properly certified. To comply with the regulations, the employer had temporarily employed a contracted certified wastewater operator to allow DeLaFuente to take two months of accumulated vacation.

The employer desired that all of its public works department employees be certified wastewater plant operators. However, no employee was required by the employer to hold a Ecology wastewater plant operator certificate or to take the certification exam.

Tijerina has been continuously employed with the employer since 1999 and was the second-most senior employee in the four-person public works department. He is not certified by Ecology as a wastewater operator. Tijerina took his first wastewater operator's certification exam on February 12, 2004. He has taken the exam at five later times. He scored a low of 57 percent on his first exam and a high of 63 percent on his last exam on June 26, 2007. A score of 70 percent is required to pass the exam. Thus, Tijerina failed to pass the exam six times.

After his last attempt to pass the wastewater plant operator exam, the employer provided all public works employees with math training

to assist those wishing to take the exam. Tijerina participated in all the math training provided by the employer.

Although he was not certified as a wastewater plant operator, Tijerina was not required by either the employer or Ecology to be certified to perform all of the tests and other work required at the wastewater plant. Unlike at least one less-senior employee in the department, Tijerina routinely and satisfactorily performed all of the Ecology and employer-required daily and weekly wastewater tests at the plant. Unlike the other employee, he also satisfactorily did all the other work inside and outside the wastewater plant required by the employer. Neither the employer nor Ecology found any fault with Tijerina routinely performing the required wastewater plant tests or his ability to correctly perform those tests. He simply was not able to be legally responsible as the certified wastewater plant operator required by Ecology to oversee operation of the employer's wastewater plant.

I find the employer's reason articulated to select Tijerina for layoff was pretextual. The articulated reason was that Tijerina was the poorest performing employee of the four employees in the public works department solely because he failed to pass his wastewater operator certification exam six times. However, this reason is at odds with Mayor Herrera's stated desire to have motivated employees who wanted to move forward and to get ahead.

The mayor acknowledged a primary consideration in deciding who to lay off was "Who's going to handle wastewater treatment, who's going to be the back-up. You know, how are we going to function. How is Tootie [DeLaFuente] going to go on vacation, if he needed to take some vacation, to lower his vacation hours down, and all of that." However, Jose Campos, the least-senior employee in the public works department, who was hired in 2005, had passed Ecology's wastewater plant operator exam in November of 2007,

before the mayor decided to lay off Tijerina. Thus, at the time the mayor decided to layoff Tijerina, there was no longer a need for a second certified employee to back-up DeLaFuente's responsibility for the wastewater plant when he went on vacation.

The mayor's advice to public works employees was, "I would like you guys to update your guys' portfolios, try to get all the training you can, so you can get more educated in your field, to make sure that we had all of the qualifications, certifications." In addition to considering that Tijerina had failed the certification exam six times, she also testified that she decided who to lay off based on "motivation, wanting to move forward, wanting to get ahead." This rationale might justify retention of Campos, the least-senior employee, based on qualifications rather than performance. Campos had passed his wastewater plant operator exam the month before the mayor decided who to lay off.

But this rationale does not explain the retention of Noe Trujillo, who is also less-senior than Tijerina. Trujillo was hired in 2003. Unlike Tijerina, Trujillo showed no interest in wastewater plant work, performed no wastewater plant work, and never even attempted to take the Ecology wastewater plant operator certification exam. Tijerina has performed all of the work required at the wastewater plant and attempted to pass the wastewater plant operator certification exam six times since 2004.

To find that the failure to pass an exam that was never required by the employer was not pretextual, would mean that the layoff of Tijerina could have been avoided simply by his never having shown interest in doing work at the wastewater plant or in obtaining certification. If he had never taken the non-required exam like Trujillo, Tijerina would have been retained and a less-senior employee laid off.

Given the anomaly of Trujillo avoiding the layoff by simply not taking the initiative to ever take the wastewater operator exam, the mayor's stated reliance on employee motivation in making the layoff decision, and the fact that there was no need for another employee to pass the operator exam to provide vacation coverage, I find the employer's articulated reason for laying off Tijerina is pretextual.

CONCLUSION

The union established a prima facie case of discrimination, and the employer articulated a non-discriminatory reason for its layoff decision. The union met its burden of proof of showing that the reason given was pretextual. Tijerina's union activity was a substantial motivating factor for the employer's action. The employer discriminated against Tijerina in reprisal for exercise of his rights protected by Chapter 41.56 RCW.

REMEDY

The customary remedies in discrimination cases include making the employee whole for lost wages and benefits, posting of notices to employees, and public reading of the notice to inform the general public of the unlawful conduct. Those remedies are granted.

The employer requested any back pay remedy granted be offset by wages earned. That request is granted as conditioned by the unfair labor practice remedies regarding back pay contained in WAC 391-45-410. WAC 391-45-410 provides:

> In calculating back pay orders, the following shall apply:
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> (1) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings the employee may have received

during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits the employee may have received during the period of the violation, and the employer shall provide evidence to the commission that the deducted amount has been repaid to the Washington state department of employment security as a credit to the benefit record of the employee.

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

FINDINGS OF FACT

1. The City of Mabton is a public employer within the meaning of RCW 41.56.030(1).

2. Teamsters Local 760, a bargaining representative within the meaning of RCW 41.56.030(3), represents a bargaining unit of office-clerical and public works employees of the employer.

3. As of December 28, 2007, the employer's public works department consisted of four employees: Arturo DeLaFuente, hired in and continuously employed since the 1980's; Frank Tijerina, hired in and continuously employed since 1999; Noe Trujillo, hired in and continuously employed since 2003; and Jose Campos, hired in and continuously employed since 2005.

4. Tijerina was the only unit employee to serve on the union negotiating committee. He also was the shop steward. As steward, he brought overtime nonpayment questions to Mayor Velva Herrera. These activities were protected activities under Chapter 41.56 RCW.

5. Tijerina was laid off by the employer on December 28, 2007. The employer's layoff decision deprived Tijerina of some ascertainable right, status or benefit.

6. A causal connection exists between the protected union activity described in Finding of Fact 4 and the employer's layoff decision described in Finding of Fact 5.

7. The employer's established procedure for layoff was to consider seniority.

8. Seniority was not considered in the employer's decision to layoff Tijerina.

9. The union was certified by the Public Employment Relations Commission as the exclusive bargaining representative of the office-clerical and public works bargaining unit on February 26, 2007.

10. Negotiations for the first union contract had not produced an agreement by December 28, 2007. On that date Tijerina was actively serving as shop steward and on the union negotiating committee.

11. The decision was made by the City Council between December 1, 17, 2007, that an employee would have to be laid off for budgetary reasons.

12. In response to the Council's decision of the budgetary need for a layoff, Mayor Herrera determined to lay off Tijerina within a few days after the date the City Council decided a layoff was necessary. Notice of layoff to Tijerina from Mayor Herrera was dated December 17, 2007.

13. The employer's stated reason to lay off Tijerina shifted from budgetary considerations to his failure to pass a wastewater certification exam six times.

14. The employer operates a wastewater treatment plant regulated by the Washington State Department of Ecology. Ecology requires that a certified operator of wastewater treatment plants be responsible for operation of the employer's wastewater plant.

15. For many years only the most senior employee in the public works department, Arturo DeLaFuente, was certified to operate the employer's wastewater treatment plant. As a result of being the only certified employee, DeLaFuente could not take a vacation without violating Ecology regulations, unless the employer temporarily employed someone else who was properly certified.

16. To comply with Ecology regulations, the employer temporarily employed a contracted certified wastewater operator to allow DeLaFuente to take accumulated vacation.

17. The employer desired that all public works department employees be certified wastewater operators. However, no employee was required by the employer to hold a wastewater plant operator certificate or to attempt to pass the Ecology wastewater plant operator exam.

18. Tijerina attempted but failed to pass his wastewater operator certification exam six times between February 12, 2004, and June 26, 2007.

19. Tijerina was not required by either the employer or Ecology to be certified to actually perform all the tests and other work required at the wastewater plant. Tijerina routinely and satisfactorily performed all the Ecology and employer-required weekly and daily wastewater tests at the plant. He also satisfactorily performed all the other work inside and outside the wastewater plant required by the employer. At least one less-senior employee did not perform such tests and other work performed by Tijerina.

20. Sometime after Tijerina's last failure to pass the wastewater plant operator exam on June 26, 2007, the employer provided math training to assist all public works employees wishing to take future exams.

21. Tijerina participated in all the math training provided by the employer.

22. Jose Campos, the least-senior employee in the public works department who was hired in 2005, passed Ecology's wastewater plant operator exam in November of 2007. Campos was not laid off. As of December 28, 2008, there was not a need for an additional Ecology certified employee to backup DeLaFuente.

23. Noe Trujillo was hired in 2003 and was not laid off. Trujillo showed no interest in wastewater plant work, performed no wastewater plant work, and never attempted to take the Ecology wastewater operator certification exam. Trujillo also did not perform some of the backhoe work performed by all other public works department employees.

24. The Mayor desired and gave consideration in the layoff decision to having motivated employees who wanted to move forward and to get ahead.

25. The employer's articulated reason for deciding to lay off Tijerina was solely because he failed to pass his wastewater certification test six times.

26. The employer's articulated reason for deciding to lay off Tijerina was pretextual.

27. Tijerina's protected union activities were a substantial motivating factor for the employer's decision to lay off Tijerina

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under Chapter 41.56 RCW and Chapter 391-45 WAC.

2. By laying off Frank Tijerina in reprisal for union activities protected by Chapter 41.56 RCW, as described in Findings of Fact 3 through 27, the employer discriminated against Tijerina and violated RCW 41.56.040 and 41.56.140(1).

ORDER

The *CITY OF MABTON*, its officers and agents, shall immediately take the following actions to remedy its unfair labor practices:

1. CEASE AND DESIST from:

   a. Discrimination against Frank Tijerina in reprisal for his participation in protected union activities;

   b. Interfering with Frank Tijerina's employee rights under Chapter 41.56 RCW;

c. In any other manner interfering with, restraining or coercing its employees in the exercise of their collective bargaining rights under the laws of the state of Washington.

2. TAKE THE FOLLOWING AFFIRMATIVE ACTION to effectuate the purposes and policies of Chapter 41.56 RCW:

a. Offer Frank Tijerina immediate and full reinstatement to his former position or a substantially equivalent position, make him whole by payment of back pay and benefits in the amounts he would have earned or received from the date of the unlawful layoff to the effective date of the unconditional offer of reinstatement made pursuant to this order, and restore his seniority. Back pay shall be computed in conformity with WAC 391-45-410.

b. Post copies of the notice provided by the Compliance Officer of the Public Employment Relations Commission in conspicuous places on the employer's premises where notices to all bargaining unit members are usually posted. These notices shall be duly signed by an authorized representative of the respondent, and shall remain posted for 60 consecutive days from the date of initial posting. The respondent shall take reasonable steps to ensure that such notices are not removed, altered, defaced, or covered by other material.

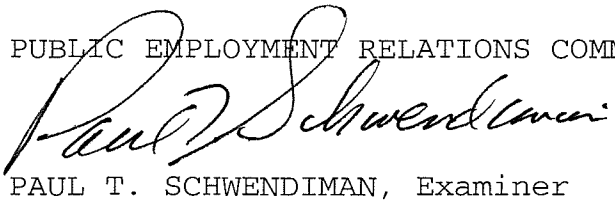
c. Read the notice provided by the Compliance Officer into the record at a regular public meeting of the City Council of the City of Mabton, and permanently append a copy of the notice to the official minutes of the meeting where the notice is read as required by this paragraph.

d. Notify the complainant, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the complainant with a signed copy of the notice provided by the Compliance Officer.

e. Notify the Compliance Officer of the Public Employment Relations Commission, in writing, within 20 days following the date of this order, as to what steps have been taken to comply with this order, and at the same time provide the Compliance Officer with a signed copy of the notice.

ISSUED at Olympia, Washington, this 5th day of February, 2009.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



PAUL T. SCHWENDIMAN, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

NOTICE
TO EMPLOYEES

THE WASHINGTON PUBLIC EMPLOYMENT RELATIONS COMMISSION CONDUCTED A LEGAL PROCEEDING IN WHICH ALL PARTIES HAD THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT. THE COMMISSION RULED THAT THE *CITY OF MABTON* COMMITTED UNFAIR LABOR PRACTICES IN VIOLATION OF STATE COLLECTIVE BARGAINING LAWS:

WE UNLAWFULLY discriminated against Frank Tijerina in violation of RCW 41.56.140(1) by laying him off in reprisal for engaging in protected union activities.

TO REMEDY OUR UNFAIR LABOR PRACTICES:

WE WILL offer to reinstate Frank Tijerina to his former position or a substantially equivalent position.

WE WILL pay Frank Tijerina the wages and benefits he lost as the result of the unlawful layoff. We will also restore his seniority.

WE WILL NOT, in any other manner, interfere with, restrain, or coerce our employees in the exercise of their collective bargaining rights under the laws of the state of Washington.

DO NOT POST OR PUBLICLY READ THIS NOTICE.

AN OFFICIAL NOTICE FOR POSTING AND READING WILL BE PROVIDED BY THE COMPLIANCE OFFICER.

The full decision is published on PERC's website, www.perc.wa.gov.