

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of)
PUBLIC, PROFESSIONAL AND OFFICE-)
CLERICAL EMPLOYEES AND DRIVERS)
UNION, LOCAL 763)
Involving Certain Employees of)
CITY OF TUKWILA)

Case No. 1428-E-78-284
Decision No. 451-A, PECB
ORDER CLARIFYING
BARGAINING UNIT

APPEARANCES:

John Komar, Business Representative, appearing for the Union.

Cabot Dow, Management Consultant, appearing for the Employer.

Teamsters Local 763, filed a petition with the Public Employment Relations Commission on March 15, 1978 raising a question concerning representation for employees of the City of Tukwila. A pre-election conference was held on May 19, 1978 at which time the parties entered into a consent election agreement. The position of administrative secretary to the Director of Public Works was challenged as being a "confidential employee" within the meaning of RCW 41.56.030(2). A hearing to resolve the challenge was held on June 15, 1978 before Rex L. Lacy, Hearing Officer, at Tukwila, Washington.

POSITIONS OF THE PARTIES:

The employer contends that the duties and responsibilities of the administrative secretary to the Director of Public Works necessarily imply a confidential relationship to the appointed official of the City of Tukwila who is involved in labor relations with Teamsters Local 763 in three separate bargaining units. The non-supervisory unit certified in the instant case is one of those units and the city contends that the disputed individual should not be included in any bargaining unit.

The union contends the administrative secretary to the Director of Public Works is a "public employee" within the meaning of RCW 41.56.030(2) and should be included in the bargaining unit.

STATUTORY PROVISIONS:

RCW 41.56.030(2) defines public employee as follows:

"(2) 'Public employee' means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or

resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer."

BACKGROUND AND ANALYSIS

Teamsters Local Union 763 represents employees of the Public Works Department under a separate collective bargaining agreement. Terry Monaghan is Director of Public Works. Doris Phelps is employed as administrative secretary to Monaghan.

On March 15, 1978, Teamsters Local Union 763 filed a petition seeking to represent a residual collective bargaining unit comprised of employees of the Finance Department, City Clerks Office, Office of Community Development, Public Works Department and non-uniformed Fire Department employees. Employees excluded from the previously existing bargaining unit of Public Works Department employees were included in the petitioned for residual unit.

On May 19, 1978, consent election agreements were entered into by the parties for two separate collective bargaining units, as follows: The first unit agreed to be appropriate was described as: All full-time and regular part-time supervisory employees of the Finance Department, City Clerks Office, Office of Community Development (Planning Division, Recreation Division and Building Division), Public Works Department and Fire Department of the City of Tukwila; excluding elected officials, officials appointed for fixed terms, confidential employees, uniformed firefighter employees, non-supervisory employees and all other employees of the city.

The second unit agreed to be appropriate was described as: All full-time and regular part-time employees of the Finance Department, City Clerks Office, Office of Community Development (Planning Division, Recreation Division and Building Division), Public Works Department and Fire Department of the City of Tukwila; excluding elected officials, officials appointed for fixed terms, confidential employees, uniformed firefighter employees, supervisors and all other employees of the city.

A supplemental stipulation to the consent election agreement was entered into by the parties submitting the question of confidential status of the administrative secretary to the Director of Public Works to PERC for determination.

The test for confidential employee status is whether the job normally requires working in a confidential capacity to a person involved in the formulation, determination and effectuation of the employer's labor relations policies. See: Edmonds School District, Decision 231 (PECB, 1977). The percentage of time spent working in labor relations matters is not relevant where the employee has some demonstrated involvement with confidential material.

The Director of Public Works participates in all aspects of collective bargaining involving employees of the department; develops, implements, and maintains personnel policies for employees of the department; formulates budgetary information; and can effectively recommend hiring, discipline, or discharge of employees within the Public Works Department. His responsibilities encompass both the already existing bargaining unit and the two new bargaining units arising from this case.

The administrative secretary to the Director of Public Works handles all correspondence relating to labor relations matters as part of her normal duties; participates in the collection, assimilation, and dissemination of budgetary data; is one of three employees of the employer that has access to personnel information; and attends all staff meetings of departmental supervisory personnel, where strategy and courses of action are formulated and implemented regarding personnel, labor relations and budget matters.

The residual non-supervisory bargaining unit of employees arising from this proceeding includes Public Works Department employees who were excluded from the bargaining unit of Public Works employees already represented by Teamsters Local Union 763. The administrative secretary was excluded from the Public Works unit on the basis of confidential employee status due to her involvement in labor relations matters regarding the Maintenance Division employees of the Public Works Department. The status of the position is unchanged by creation of the residual collective bargaining unit of non-supervisory employees and the reasons for affording exclusionary status are strengthened with the creation of the supervisor collective bargaining unit in these proceedings.

FINDINGS OF FACT

1. City of Tukwila is a municipality of the State of Washington and is a public employer within the meaning of RCW 41.56.030(1).
2. Teamsters Local Union 763, a bargaining representative, represents three separate appropriate collective bargaining units of employees which include employees of the Public Works Department of the City of Tukwila.

3. The Director of Public Works is responsible for labor relations matters for all three appropriate collective bargaining units of Public Works employees.

4. The administrative secretary to the Director of Public Works is involved in labor relations matters and has access to confidential information concerning the labor relations policies of the employer for all three bargaining units of Public Works employees.

CONCLUSION OF LAW


The Administrative Secretary to the Director of Public Works is a confidential employee within the meaning of RCW 41.56.030(2).

ORDER

The position of administrative secretary to the Director of Public Works shall be excluded from all collective bargaining units.

DATED at Olympia, Washington this 30th day of November, 1978.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director