

investigation of a question concerning representation with the Public Employment Relations Commission, seeking certification as exclusive bargaining representative of "all department directors" of the City of Milton (employer). The description of an appropriate bargaining unit was among the issues remaining in dispute following a pre-hearing conference on October 7, 1994.

Hearing Officer Mark S. Downing held a hearing on October 20, 1994, where the employer proposed to describe the unit as follows:

Supervisory employees employed as Department Directors at the City of Milton, excluding the volunteer Fire Chief and any confidential or other employees excluded from the bargaining unit by Chapter 41.56 RCW.

On July 17, 1995, Executive Director Marvin L. Schurke directed an election for a bargaining unit described as:

All full-time and regular part-time supervisors of the City of Milton, excluding elected officials, officials appointed for a fixed term of office, confidential employees and all non-supervisory employees

On July 25, 1995, the employer filed objections with the Commission concerning the bargaining unit description. The employer expressed concern that the

[D]escription does not limit the bargaining unit to Department Directors, a limitation to which both parties agreed and which accurately reflects the status of those employees petitioning for a bargaining unit in this case.

The employer claimed that the unit description in the direction of election would lead to confusion and potential litigation as to the inclusion of supervisors who may not share a community of interest with department directors.

DISCUSSION

The Supreme Court of the State of Washington has ruled that persons who would be excluded from collective bargaining rights under the National Labor Relations Act as "supervisors" have the right to organize and bargain under Chapter 41.56 RCW. Municipality of Metropolitan Seattle (METRO) v. Department of Labor and Industries, 88 Wn.2d 925 (1977). A bargaining unit of supervisors was previously determined appropriate in City of Tacoma, Decision 95-A (PECB, 1977), and such units have been found appropriate in numerous subsequent cases. Supervisors share a community of interest in their exercise of authority over subordinate employees, which also warrants their exclusion from the unit which includes their subordinates. City of Richland, Decision 279-A (PECB, 1978), affirmed 29 Wn.App. 599 (Division III, 1981), review denied 96 Wn.2d 1004 (1981).

The Commission has traditionally used generic terms to describe bargaining units, because of the potential problems created by the use of specific titles or other terminology. For example, supervisor bargaining units were described as "All full-time and regular part-time supervisor(s) ..." in Tacoma School District, Decision 2250-A (PECB, 1986); King County, Decision 4004 (PECB, 1992); and King County Fire District, Decision 4928 (PECB, 1994).

If we were to limit the unit description to "department directors" in this case, the situation would be ripe for future conflict. For example, the employer could develop a position with similar duties, but call it something other than a "department director". Alternatively, a position given a "department director" title, but which does not exercise authority over subordinate employees, could be automatically (and inappropriately) included in this bargaining unit simply because of the job title.

The use of a generic phrase to describe a supervisory bargaining unit does create the possibility that other positions could eventually qualify for inclusion. The Public Employment Relations Commission retains the authority conferred by RCW 41.56.060 to determine whether positions share a community of interest with others in a bargaining unit. We see no problem with the potential inclusion of other supervisors who share a community of interest with "department directors". We do see a potential for mischief and confusion under the collective bargaining law were we to deviate from our preference for generic terms in unit descriptions.

NOW, THEREFORE, it is

ORDERED

1. The objections filed by the employer in this matter pursuant to WAC 391-25-590 are DENIED.
2. The interim certification will stand as the final certification of representative in this proceeding, with the bargaining unit as described in the Executive Director's Direction of Election issued July 17, 1995.

Issued at Olympia, Washington, the 24th day of October, 1995.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


JANET L. GAUNT, Chairperson


SAM KINVILLE, Commissioner


JOSEPH W. DUFFY, Commissioner