

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CITY OF SUNNYSIDE,)	
)	
Complainant,)	CASE NO. 2329-U-79-335
)	
VS.)	DECISION NO. 751-PECB
)	
SUNNYSIDE POLICE PATROLMAN'S,)	ORDER OF DISMISSAL
)	
Respondent.)	

The City of Sunnyside filed its complaint charging unfair labor practices on September 20, 1979. The Sunnyside Police Patrolman's Association filed a complaint on September 25, 1979 which was docketed as Case 2343-U-79-338. The city's complaint is before the Executive Director for a preliminary rulings pursuant to WAC 391-21-510.

The unusual nature of the employer's complaint can best be explained by setting forth the material allegations of the complaint in full:

"On September 17, 1979 the enclosed Letter to the Editor appeared in the Sunnyside Daily News. This was during the course of collective bargaining negotiations. No impasse has been declared and no discussion of the issues named have been brought to the attention of the employers.

The City's position is to suspend negotiations until these matters are resolved to the satisfaction of the City.

ENCLOSURE:

September 16, 1979

To the People of Sunnyside:

The Sunnyside Police Association wishes to inform the people of the community of the adverse conditions within the Police Department. A great deal of consideration of concern has gone into the preparation of this letter. We feel the present conditions have a direct effect upon the community and therefore, the people should be made aware of these adverse conditions.

The members of the Sunnyside Police Association have been advised to maintain a quota of arrests and citations. Officers have been told that more citations and arrests must be made to improve department statistics. The officer's discretion to issue a citation has been eliminated.

Favoritism in enforcement has been shown when some citations have been voided for certain people, and the reports changed accordingly by the administration.

Relationships and cooperation with members of other agencies, as well as other city employees, have become severely strained due to the administration's posture.

Morale is at its lowest level in the past five years, due to the administration's style and method of management. Association members are in a constant state of duress because of the mental pressure of threats, coercion and fear of administrative reprisal. Numerous members of the association, who are well trained and experienced police officers, are actively seeking employment elsewhere.

Numerous attempts by the association over the past few years to rectify these adverse conditions have been met with indifference by the administration.

We feel that these conditions are harmful to the people of the community, and we ask for the help of the people to correct these conditions.

/s/ M. G. Alvord, Pres.
Sunnyside Police Assn.

STATUTORY AUTHORITY: The Complainant alleges that the Respondent has, thereby, engaged in unfair labor practices in violation of the following specific sections of the Revised Code of Washington (RCW): 41.56.150 (2) and (4). The Association is also in violation of its obligations under RCW 41.56.030 (4).

RELIEF SOUGHT: The Complainant requests the Public Employment Relations Commission to proceed under its statutory authority and requests the Commission to order the following relief: Direct the Police Patrolman's Association to cease and desist any further activity that circumvents the collective bargaining relationship as it pertains to working conditions for employees they represent. Secondly, the Police Patrolman's Association be ordered to bargain with the City in good faith."

The Association's complaint makes reference to the "suspend the negotiations" language of the City's complaint, and alleges that the City cancelled a bargaining session scheduled for September 25, 1979.

The Executive Director is obligated by WAC 391-21-510 to determine whether the facts as alleged may constitute an unfair labor practice within the meaning of RCW 41.56.140 or RCW 41.56.150. At this stage of the proceedings, it is assumed that all of the facts alleged in each complaint are true and provable.

Chapter 41.56 RCW does not contain a specific "free speech" provision such as that found in RCW 41.59.140(3) and in Section 8(c) of the National Labor Relations Act; but RCW 41.56 must be interpreted in light of the experience which led to the enactment of Section 8(c) as part of the Labor-Management Relations Act of 1947. Through an early line of cases, the National Labor Relations Board sought to severely limit freedom of speech; and that policy was reverse by the United States Supreme Court in NLRB v. Virginia Elec. & Power Co., 314 U.S. 469 (1941), holding that persons regulated by the National Labor Relations Act retained a constitutional right to express opinions that were non-coercive in nature. The free-speech rights of public employees in a collective bargaining setting have more recently been accorded

constitutional protection in City of Madison, Joint School District No. 8 v. WERC, 429 U.S. 167 (1976). What is alleged by the City's complaint is that the Association has made a public expression of views. There is no indicated link between that expression of views and unfair labor practices proscribed by RCW 41.56.150(2) and (4), and dismissal of the City's complaint is indicated under WAC 391-21-510.

NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices filed by the City of Sunnyside in Case No. 2329-U-79-335 is dismissed for failure to state a cause of action.

DATED at Olympia, Washington this 24th day of October, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARVIN L. SCHURKE, Executive Director