STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

AMALGAMATED TRANSIT UNION, LOCAL 758, Complainant,	)	CASE NO. 5970-U-85-1113
vs.	)	DECISION NO. 2332-PECB
CITY OF LONGVIEW, Respondent.	)	PRELIMINARY RULING AND ORDER OF DISMISSAL

On September 6, 1985, Mattye Sue Peters and Amalgamated Transit Union, Local 758, filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the City of Longview had committed an unfair labor practice. The matter is before the Executive Director for a preliminary ruling pursuant to WAC 391-45-110. At this stage of the proceedings it is presumed that all of the facts alleged are true and provable. The question at hand is whether the complaint states a cause of action for unfair labor practice proceedings before the Public Employment Relations Commission.

The statement of facts filed with the complaint sets forth the circumstances of an injury, exhaustion of Complainant Peters' leave rights, and the filing and initial processing of a grievance under a collective bargaining agreement between the employer and the union. The employer is alleged to have refused to process the grievance, and to have refused to proceed to arbitration on the grievance. It is evident that the complainants are engaged in an attempt to enforce the collective bargaining agreement, and particularly the agreement to arbitrate contained therein.

Arbitration of disputes concerning the interpretation and application of a collective bargaining agreement is a process preferred by both federal and state labor policy. See: Section 203(d) of the federal Labor-Management Relations Act of 1947 (Taft-Hartley Act), as amended, and RCW 41.58.020(4). Our legislature has given further incentive to the use of the arbitration process by making the grievance arbitration services of the Public Employment Relations Commission available to all parties under Chapter 41.56 RCW, without cost to them. See: RCW 41.56.125. But we are dealing here with enforcement of the agreement to arbitrate, rather than with the public policy favoring grievance arbitration.

The federal law provides, in Section 301 of the Taft-Hartley Act for the litigation of breach of contract claims in the courts. Indeed, the "Steelworkers Trilogy" and other significant court decisions endorsing and extending the use of grievance arbitration in labor relations have come up through the courts under Section 301, rather than through the National Labor Relations Board in cases under the unfair labor practice proscriptions to be found in Section 8 of the National Labor Relations Act. In turn, the National Labor Relations Board recognizes that Congress rejected the idea of making violation of a collective bargaining agreement an unfair labor practice, and it will normally not process violation of contract cases.

Our legislature has not included provisions precisely comparable to Section 301 of the Taft-Hartley Act in Chapter 41.56 RCW. Such provision are not necessary to make violation of contract claims justiciable in the Superior Courts of this state, due to their broad constitutional jurisdiction. Similar to the situation prevailing under federal law (but distinguished from the statutes of some other states), our legislature has not delegated authority to the Public

Employment Relations Commission to determine violation of contract allegations as unfair labor practices under Chapter 41.56 RCW. Ever since Thurston County Communication Board, Decision 103 (PECB, 1976), it has been held that the Public Employment Relations Commission lacks jurisdiction to enforce the agreement to arbitrate through the unfair labor practice procedure.

NOW, THEREFORE, it is

ORDERED

The compliant filed in the above-entitled case is dismissed for lack of jurisdiction.

DATED at Olympia, Washington, 9th day of December, 1985.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARVIN L. SCHURKE, Executive Director

This Order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.