STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WALTER ENQUIST, Complainant, vs. CITY OF MOUNT VERNON, Respondent.	)	CASE NO. 7268-U-88-1492 DECISION 3092 - PECB ORDER OF DISMISSAL

The complaint charging unfair labor practices was filed in the above-captioned matter on February 23, 1988. The case was previously reviewed by the Executive Director for purposes of making a preliminary ruling pursuant to WAC 391-45-110, and a letter was directed to the complainant on August 16, 1988, noting deficiencies in the complaint as filed. A response from the complainant led to an additional letter directed to the complainant on October 17, 1988, and to an additional response from the complainant.

At this stage of the proceedings, it is presumed that all of the facts alleged by the complainant are true and provable. The purpose of the preliminary ruling process is to avoid the expense to the taxpayers of hearing and determining allegations which could not lead to a finding of an unfair labor practice violation. Upon review of the documents on file in this case, it must be concluded that no cause of action exists.

The statement of facts and supplemental documents outline a situation in which the employer has an ongoing collective bargaining relationship with Teamsters Union, Local 788. The complainant, who is an individual employee within the bargaining unit represented by that union, complains because one city official (the Mayor) has instructed bargaining unit employees to cease taking their grievances directly to the individual who has been the city's representative in the past in collective bargaining negotiations. The particular issue concerns interpretation of a wage and progression scheme that was a subject of negotiations between the employer and union.

It is well accepted that, where employees have chosen to organize for the purposes of collective bargaining, it is the exclusive bargaining representative (union) which has the right to engage in bargaining with the employer. Bargaining unit employees to not have standing to raise "refusal to bargain" unfair labor practice charges under the statute. Grant County, Decision 2703 (PECB, 1987). The employer is, in fact, prohibited from dealing directly with bargaining unit employees.

It is also well-accepted that an employer has the right, under the statute, to designate its representatives for the purposes of collective bargaining. Accepting that the City of Mount Vernon may have chosen in the past to hire a particular person as its spokesman in negotiation, nothing would prevent the city from changing its representative or from limiting the amount of work that the person does for the city.

To the extent that the limited facts set forth in the complaint suggest that the mayor may also have ordered employees to desist from talking to other elected officials of the city, the complaint does not state a cause of action for

unfair labor practice proceedings before the Public Employment Relations Commission. While employees have "free speech" rights as citizens, separate and apart form their right to communicate with their employer through their union as part of the collective bargaining process, the Commission has no jurisdiction to remedy violations of such "free speech" rights.

NOW, THEREFORE, IT IS

ORDERED

The complaint charging unfair labor practices filed in the above-entitled matter shall be, and hereby is, dismissed as failing to state a cause of action.

DATED at Olympia, Washington, this 9th day of January, 1989.

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.