

City of Kirkland, Decision 5672 (PECB, 1996)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

WASHINGTON STATE COUNCIL OF COUNTY)	
AND CITY EMPLOYEES, LOCAL 1837,)	
)	
Complainant,)	CASE 12553-U-96-2985
)	
vs.)	DECISION 5672 - PECB
)	
CITY OF KIRKLAND,)	
)	
Respondent.)	ORDER OF
)	PARTIAL DISMISSAL
)	

On June 17, 1996, the Washington State Council of County and City Employees, Local 1837 (union), filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC. The complaint alleges that the City of Kirkland (employer) has refused to bargain in violation of RCW 41.56.140(4), by the totality of its conduct in negotiations for an initial collective bargaining agreement between the parties.

The complaint was reviewed for the purpose of making a preliminary ruling under WAC 391-45-110. A letter sent to the parties on August 13, 1996 pointed out that the first allegation of the complaint, which concerns the employer's failure to use criteria agreed upon by the parties in ground rules to discuss negotiation proposals, failed to state a cause of action. The remaining allegations of the complaint, as well as allegations contained in an amended complaint filed on July 5, 1996, were found to constitute causes of action. The union was given a period of 14 days in which to file an amended complaint which stated a cause of action on the first allegation, or face dismissal of that allegation. Nothing further has been heard or received from the union.

The bargaining obligations of employers and unions covered by Chapter 41.56 RCW grow out of the statute itself. RCW 41.56.030-(4). While parties may make and implement agreements about how they will satisfy their statutory obligations, such "ground rules" are not themselves a mandatory subject of collective bargaining. See, Pacific County, Decision 4935 (PECB, 1994); Fort Vancouver Regional Library, Decision 2350-C (PECB, 1988); and City of Bellevue, Decision 2899 (PECB, 1988). Where parties have agreed on "ground rules", enforcement of such agreements is like the enforcement of any other agreement reached in collective bargaining. The Public Employment Relations Commission does not assert jurisdiction to remedy violations of collective bargaining agreements through the unfair labor practice provisions of the statute. City of Walla Walla, Decision 104 (PECB, 1976).

NOW, THEREFORE, it is

ORDERED

1. The allegations concerning violations of ground rules, as set forth in paragraphs 1 through 3 of the statement of facts in the above-captioned matter, are DISMISSED.
2. PLEASE TAKE NOTICE THAT, the person or organization charged with an unfair labor practice in this matter (the "respondent") shall, as to the remaining allegations:

**File and serve its answer to the complaint within
21 days following the date of this letter.**

An answer filed by a respondent shall:

1. Specifically admit, deny or explain each of the facts alleged in the complaint, except if the respondent is without knowledge of the facts, it shall so state, and that statement will operate as a denial.

2. Specify whether "deferral to arbitration" is requested, and include a copy of the collective bargaining agreement and other grievance documents on which a "deferral" request is based.

3. Assert any other affirmative defenses that are claimed to exist in the matter.

The original answer and one copy shall be filed with the Commission at its Olympia office. A copy of the answer shall be served, on the same date, on the attorney or principal representative of the person or organization that filed the complaint.

Except for good cause shown, a failure to file an answer within the time specified, or the failure of an answer to specifically deny or explain a fact alleged in the complaint, will be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of a hearing as to the facts so admitted. WAC 391-45-210.

3. Until a different examiner is assigned, please direct all correspondence and motions on this matter to the undersigned.

Issued at Olympia, Washington, this 11th day of September, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 1 of this order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.