City of Seattle, Decisions 6030 and 6031 (PECB, 1997)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

SEATTLE PROSECUTING ATTORNEYS' ASSOCIATION,	)	
Complainant,	)	CASE 13184-U-97-3206 DECISION 6030 - PECB
vs.	)	CASE 13185-U-97-3207 DECISION 6031 - PECB
CITY OF SEATTLE,	)	
Respondent.	)	ORDER OF CONSOLIDATION AND PARTIAL DISMISSAL

Cline & Emmal, by James M. Cline, Attorney at Law, appeared on behalf of the complainant.

Mark Sidran, City Attorney, by Leigh Ann Collins Tift, appeared on behalf of the respondent.

On May 28, 1997, the Seattle Prosecuting Attorneys' Association filed several unfair labor practice complaints with the Public Employment Relations Commission, each alleging that the City of Seattle had violated RCW 41.56.140. Upon review of the case files, the allegations of the complaints docketed as Case 13184-U-97-3206 and Case 13185-U-97-3207 appeared to have some relationship to one another. Those cases were considered together for the purpose of administrative efficiency in making preliminary rulings under WAC 391-45-110.[1]

[1] At this stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

In a Deficiency Notice issued June 24, 1997, the parties were advised that:

- The complaint in Case 13184-U-97-3206 was found to state a cause of action, with respect to an allegation of direct communication by the employer with bargaining unit members during the pendency of collective bargaining negotiations.

- The allegations in Case 13185-U-97-3207 were divided into two groups:

    1. A cause of action was found to exist with respect to an allegation that the employer had insisted to impasse on proposed waivers of bargaining rights on a variety of mandatory subjects of bargaining, and on allegations that the totality of the employer's conduct in bargaining demonstrated a failure to bargain in good faith with the exclusive bargaining representative of its employees.

    2. An allegation that the employer had refused to bargain by rejecting just cause proposal based upon "an erroneous discredited legal theory" related to civil service protection was found insufficient to state a cause of action.

The complainant was given a period of 14 days following the date of the letter in which to file and serve an amended complaint, or face dismissal of those components of the complaints which failed to state a cause of action. Nothing further has been received from the complainant in this matter. In the absence of any additional information concerning the "erroneous legal theory" allegation, that allegation remains insufficient to state a cause of action.

NOW, THEREFORE, it is

ORDERED

1. The allegation of refusal to bargain in Case 13185-U-97-3207 based upon the employer's reliance upon an "erroneous legal theory" are DISMISSED as failing to state a cause of action.

2. All of the other allegations in the above-captioned cases are found to state a cause of action and are hereby consolidated for further proceedings under Chapter 391-45 WAC.

   a. Chapter 391-45 WAC now **requires the filing of an answer** in response to a preliminary ruling which finds a cause of action to exist. See, WAC 391-45-110(2). Cases are reviewed after the answer is filed, to evaluate the propriety of a settlement conference under WAC 391-45-260, priority processing, or other special handling.

   PLEASE TAKE NOTICE THAT, the City of Seattle shall:

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

   An answer filed by a respondent shall:

   i. 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; and

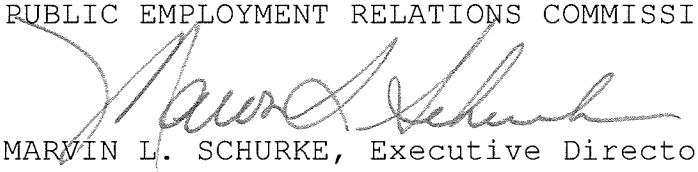
ii. Assert any affirmative defenses that are claimed to exist in the matter.

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 to file 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.

b. Walter M. Stuteville is designated as Examiner to conduct the further proceedings consistent with this order.

Issued at Olympia, Washington, on the 29th day of August, 1997.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Paragraph 1 of this order will be the final order of the agency on the matters covered thereby unless appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.