COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Labor Relations Board

YORK CITY EMPLOYEES' UNION	:	
	:	
v.	:	Case No. PERA-C-05-612-E
	:	
CITY OF YORK	:	

FINAL ORDER

The York City Employees' Union (Union) filed exceptions and a supporting brief with the Pennsylvania Labor Relations Board (Board) on October 19, 2006, challenging a Proposed Decision and Order (PDO) issued October 2, 2006, wherein the Hearing Examiner concluded that the City of York (City) did not violate Section 1201(a)(1), (3) or (5) of the Public Employe Relations Act (PERA). The City did not file a brief in opposition to the exceptions.

The factual background is briefly stated as follows: The City and the Union were parties to a collective bargaining agreement which expired on December 31, 2005. In October of 2005, the parties began negotiations for a new agreement. (Finding of Fact No. 3). During negotiations, the City proposed no increase in wages. In response, the Union requested information, including: 1) copies of all contracts that City has with other unions and 2) salary information for non-unit managerial personnel. (Finding of Fact No. 5). On November 10, 2005, the Union also sent the City an e-mail which stated that: "Without knowing what the coverage features of the proposed health plan are, do not expect any response to the co-pay proposal made this morning." (Finding of Fact No. 7; Union Exhibit No. 2). However, as of the last bargaining session on December 14, 2005, the City had not made a health care proposal because it was waiting for a consultant's report, which it received in January of 2006. (Finding of Fact Nos. 14 and 15). On December 6, 2005, the City submitted managerial salary information to the Union for the year 2005, but not 2004. (Finding of Fact No. 8). On December 19, 2005, the City provided the Union with copies of collective bargaining agreements between the City and other unions. (Finding of Fact No. 13).

The Union's charge alleged that the City failed to provide information necessary for collective bargaining and was not prepared to negotiate on December 14, 2005, thereby violating Section 1201(a)(1), (3) and (5) of PERA. In the PDO, the Hearing Examiner determined that the City did not commit a violation of PERA as alleged.[1]

In its exceptions, the Union argues that: 1) the City did not bargain in good faith when it failed to comply with the Union's request for copies of all contracts with other unions with which it negotiates, 2) the City did not bargain in good faith when it failed to comply with the Union's request for a list of raises and amounts for non-bargaining unit employes for 2004 and 2005, and 3) the City did not bargain in good faith when it failed to provide information concerning the cost of proposed health care.

In its brief in support of the exceptions, the Union only argues that the Hearing Examiner erred in finding that the information requested by the Union was not relevant. The only requested information that the Hearing Examiner found the City failed to provide was managerial salaries for 2004, which the Hearing Examiner found was not relevant. Accordingly, the Union's exceptions are limited to the Hearing Examiner's failure to find that the 2004 non-unit managerial salary information was relevant.

In footnote number three of the PDO, the Hearing Examiner stated that, at the unfair practice hearing, the City provided the 2004 salary information to the Union. However, as noted by the Hearing Examiner, the fact that the City provided this

[1] The Hearing Examiner dismissed the charge under Section 1201(a)(3) because the Union presented no evidence in support. The Union did not file exceptions to this dismissal.

information at the hearing did not make this issue moot because an employer had an obligation to provide information to a union within a reasonable period of time. United Steelworkers of America v. Ford City Borough, 37 PPER ¶ 11 (Final Order, 2006). As such, the Board will consider whether the City committed an unfair practice by failing to provide the 2004 salary information within a reasonable period of time.

"[T]he Board has adopted the standard of relevance that is applied under federal labor law for information requests by employe bargaining representatives, which is a liberal discovery type standard of relevance that allows the union to obtain a broad range of potentially useful information. See, e.g., Commonwealth v. PLRB, 527 A.2d 1097 (Pa. Cmwlth. 1987) ... Under the federal cases which the Board has found persuasive, information that pertains to employes in the bargaining unit is presumptively relevant. NLRB v. U.S. Postal Service, 888 F.2d 1568 (11th Cir. 1989); NLRB v. Pfizer, Inc., 763 F.2d 887 (7th Cir. 1985)." North Hills Education Association v. North Hills School District, 29 PPER ¶ 29063 (Final Order, 1998). However, "when a union requests information relating to the employer's financial condition or the wages, hours and working conditions of nonbargaining unit employes, the information does not have to be provided unless the union shows why the information is relevant. San Diego Newspaper Guild v. NLRB, 548 F.2d 863, 94 LRRM 2923 (9th Cir., 1977); Crane Company, 244 NLRB No. 15, 102 LRRM 1351 (1979)." Lawrence Park Township Police Bargaining Unit v. Lawrence Park Township, 17 PPER ¶ 17057 (PDO, 1986).

In its brief filed after the hearing before the Hearing Examiner, the Union cited NLRB v. Truitt Manufacturing Co., 351 U.S. 149, 76 S.Ct. 753 (1956) in support of its argument that the 2004 managerial salary information was relevant. In that case, an employer was found to have not bargained in good faith when it claimed it could not afford to pay higher wages and then refused to provide information to support that claim. The Hearing Examiner distinguished the Truitt case and found that, although the City failed to provide the 2004 managerial salary information, this information was not relevant because the City did not claim that it could not afford wage increases when it made its zero wage increase proposal to the Union. In its brief in support of the exceptions, the Union does not cite the Truitt case or provide any alternate reason why the non-unit managerial salary information is relevant. Rather, the Union only argues that the information it requested was factually related to its contract negotiations. The Board agrees with the Hearing Examiner that the Union failed to produce any evidence that the non-unit managerial salary information was relevant to its negotiations with the City because the Union failed to produce any evidence that the City claimed it could not afford a wage increase when it made its zero wage increase proposal. Further, the parties were engaged in bargaining for a contract to commence on January 1, 2006, and the Union has provided no explanation for why salary information which is two years removed from the 2006 fiscal year would be relevant to negotiations. Accordingly, the Union's exceptions are dismissed.

After a thorough review of the exceptions, the brief in support and all matters of record, the Board shall dismiss the Union's exceptions and affirm the Hearing Examiner's conclusion that the City did not engage in unfair practices in violation of Section 1201(a)(1), (3) and (5) of PERA.

In view of the foregoing and in order to effectuate the policies of the Public Employe Relations Act, the Board

HEREBY ORDERS AND DIRECTS

that the exceptions filed by the Union are hereby dismissed, and the October 2, 2006 Proposed Decision and Order be and hereby is made absolute and final.

SEALED, DATED and MAILED pursuant to Conference Call Meeting of the Pennsylvania Labor Relations Board, L. Dennis Martire, Chairman, Anne E. Covey, Member, and James M. Darby, Member, this nineteenth day of December, 2006. The Board hereby authorizes the Secretary of the Board, pursuant to 34 Pa. Code 95.81(a), to issue and serve upon the parties hereto the within Order.