



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Town of Seabrook	*	
	*	
	*	
Complainant	*	
	*	
v.	*	Case No. M-0591-38
	*	
Local 1984 SEIU, SEA	*	Decision No. 2002-156
Seabrook Employees Association	*	
	*	
Respondent	*	
	*	

MOTION IN LIMINE AND MOTION TO CONTINUE

PARTICIPATING REPRESENTATIVES

For the Complainant: Robert D. Ciandella, Esquire

For the Respondent: Jeffrey L. Brown, Union Field Representative

BACKGROUND

The Town of Seabrook ("Town") filed unfair labor practice (ULP) charges against the State Employees Association, Local 1984, SEIU, (Union) as bargaining agent for the Seabrook Employees Association ("Association") on August 5, 2002 to which the Union filed responsive pleadings on August 19, 2002. This was followed by a pre-hearing conference on October 2, 2002 (Decision Nos. 2002-120 and 2002-138) and a hearing on an issue of standing on December 19, 2002, pending commencement of agreed-to depositions (Decision No. 2002-154). Thereafter, the Town filed a motion *in limine* on December 20, 2002 seeking rulings and/or a protective order on the scope of inquiry in the pending depositions, especially pertaining to statutorily protected privacy issues, matters of privilege or personnel actions. Because there is a deposition completion date of January 10, 2003 (Decision No. 2002-138), the parties agreed to a telephonic hearing with the undersigned hearing officer set for December 23, 2002 to address the motion *in limine*.

Both parties presented their respective arguments on the motion *in limine*, the nature of their anticipated inquires of deponents and their causes for objection to questions that were, or presented the potential for being, intrusive of or detracting from statutorily protected areas of disclosure. During the course of this discussion, the parties agreed to seek agreement and to proceed to conduct an *in camera* review of documents which may be dispositive of pending discovery issues or facilitate the testimony required of witnesses. They further agreed that the prior

estimate of one hearing day in Decision No. 2002-120 was understated and that completion of the *in camera* agreement and review before the assigned hearing date of January 16, 2003 was unrealistic because it did not allow for the time required for depositions. The parties joined in moving that the calendar be amended as follows: completion, negotiations and signing of *in camera* confidentiality agreement by January 10, 2003, completion of *in camera* review of documents by January 17, 2003, completion of depositions by January 31, 2003, and hearing on the merits before the PELRB after February 15, 2003.

ORDER

In accordance with the foregoing, the Order in this matter shall be:

1. The motion *in limine* is granted to the extent that any inquiries of deponents based upon matters of privilege and/or based on a statutorily protected right of privacy or otherwise are hereby protected from the deposition process. Such issues, if pursued beyond the deposition phase, must be addressed to and determined by the finder(s) of fact when this case is presented on the merits so that rulings may be made based upon the context in which the objections were made.
2. The parties joint request/agreement to participate in an *in camera* review of documents is granted consistent with the schedule set forth in Item 4.
3. Any outstanding issues of access to or admissibility of evidence not resolved by *in camera* review or at the deposition phase must be raised to and determined by the finder(s) of fact as provided in Item 1.
4. The schedule for completion of assigned tasks shall be modified to read: completion of *in camera* agreement by January 10, 2003, completion of *in camera* review by January 17, 2003, completion of depositions by January 31, 2003, and a hearing on the merits before the PELRB on or after February 15, 2003. Failure to meet any of these deadlines shall not be cause to extend subsequent deadlines set forth above, inclusive of the PELRB hearing date. In no case shall a final or amended list of witnesses or of exhibits be filed less than five (5) days prior to the to-be-scheduled hearing date.
Rule PUB 203.01.

So ordered.

Signed this 30th day of December, 2002.



PARKER DENACO
Hearing Officer