



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Classified Employee Petitioners of the	*	
New Hampshire Public Utilities Commission	*	
	*	Case No. S-0419-1
and	*	
	*	
State Employees' Association of NH, Inc.,	*	Decision 2006-175
SEIU Local 1984	*	

DENIAL OF MOTION TO OBTAIN INFORMATION

The Petitioner, named in the caption as the New Hampshire Public Utilities Commission ("PUC"), is now understood and recognized by earlier proceedings by the PELRB as being certain individuals regarded as classified employees within the PUC. An informal pre-election conference, pursuant to Admin. R. Pub 303.02 (a), was conducted on October 2, 2006.

During discussion among the parties and in which Sara Willingham, Director of Human Resources, also was present and utilized by the parties as a resource person, Ms. Hayes made an oral request of the presiding official for a list of names of subject employees that included each employee's home address. Ms. Hayes questioned whether the petitioner had received such a list and requested that the SEA/SEIU also be presented with a copy of such a list containing home addresses of employees, both union members and non-members.

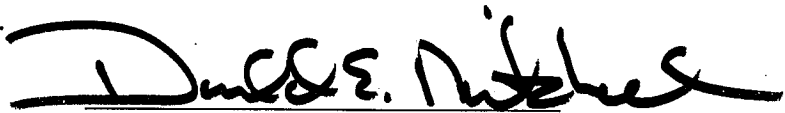
Upon that information, the PELRB presiding official duly put the representative of the petitioning employees under oath and in a series of questions determined that she had seen such an inclusive list. She responded under oath that she had not duplicated the list, had not contacted any of the persons named on that list at their home address, and averred that she would not do so. Apparently the release of such a list to her occurred prior to Ms. Willingham's instructive memorandum that was issued following a similar discovery that an employee list with home addresses had been distributed to the petitioning employees of the Department of Insurance in a parallel proceeding. The presiding official determined that a review of the list constituted harmless error and presented no prejudice to any party.

The instant motion also alleges that since it was an agent of the state that provided such information to the Petitioners, that "confidentiality was waived by the State". The State has not been made a party to these proceedings, nor is it contemplated to be one under the provisions of RSA 273-A and relevant administrative rules. Further, the Respondent counsel's conception of confidentiality is misapplied in this instance as any right to confidentiality of one's home address lays with the individual, not with the state. It cannot be said that by providing a home mailing address to its employer, a public employee is waiving any right he or she may have to its confidentiality much less repeated production of what was obviously an initial, and harmless, error made by some human resource staff person.

The PELRB has previously expressed its "valid concerns for privacy" in SEA/SEIU v. State of New Hampshire, Case No. S-0330-5, Decision No. 2003-093. While that matter did not relate directly to elections, it did involve the release of home addresses of employees. That matter was the result of a formal hearing on an unfair labor practice complaint of this union against the State of New Hampshire. This proceeding is an informal pre-election conference between the incumbent union and certain employees that seek to decertify the SEA/SEIU as their exclusive representative. While it may be argued that the written motion of the SEA/SEIU is not a proper action as it duplicates an oral request already denied with supporting rationale provided by the undersigned presiding official at the pre-election conference action, I nonetheless take this opportunity to espouse the PELRB's strong belief that an employee's privacy interest in their home address is an interest that may be breached, if at all, only after sufficient proof is offered of the blanket inability of any union or other party to otherwise reasonably communicate with employees. Further, the PELRB presumes, as there is no representation that the SEA is not receiving all information in its role as incumbent exclusive bargaining representative as is its right under Article III "Association Rights" § 3.2. If, in the instant proceeding, the SEA/SEIU is prevented from distributing or communicating with employees through an orderly process at the workplace or from their own sources of information, then sworn affidavits of SEA/SEIU representatives detailing the act or failure to act such as to prejudice the scheduled election shall be immediately submitted to the PELRB for evaluation.

It is so ordered.

Signed this 10th day of October, 2006.



Donald E. Mitchell, Esq.
Executive Director

Distribution:

Lorri Hayes, Esq., SEA/SEIU Local 1984
Sara Willingham, Manager of Employee Relations, State of NH
John S. Krupski, Esq., SEA/SEIU Local 1984
Jody O'Marra, Petitioner representative