

# POLICE OFFICERS ASSOCIATION OF MICHIGAN

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October 6, 2008

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Re: Case No. R08 E-077 (Representation Election)  
Wayne County Sheriff's Department and SEIU

Dear Ms. Okun:

The Police Officers Association of Michigan is in receipt of a copy of an Unfair Labor Practice Charge filed by the Service Employees International Union (SEIU, Local 502) against the Wayne County Sheriff's Department. The charge, as filed, was not served on POAM, despite the fact that the charge seeks to block the representation election mailing of ballots, set to begin on October 6, 2008, of which POAM is the petitioning party.

POAM has an interest in the subject of the Unfair Labor Practice Charge due to the request to block the representation election petition filed by POAM. Joinder of POAM in the Unfair Labor Practice proceeding pursuant to Administrative Rule 423.157 is appropriate for the Commission to render complete relief. This correspondence shall serve as POAM's motion to join the proceeding, as well as the request for administrative decision by the Commission rejecting treatment of the Unfair Labor Practice Charge as a blocking charge to the election process. This request, therefore, may be characterized as a Motion for Summary Disposition pursuant to Administrative Rule 423.165(2)(D), for the reason that SEIU, Local 502 has failed to state a sufficient claim to block the representation election. Because SEIU, Local 502 failed to notify POAM of its request for a blocking charge, POAM requests waiver of the procedural requirements of Administrative Rule 423.184 as to form and style of POAM's motions as stated herein.

At the outset, it is the position of POAM that there is absolutely no basis for the Unfair Labor Practice Charge to constitute a block to the election. The theme of the Unfair Labor Practice Charge is that SEIU, Local 502, through its local

representatives, were coerced into bargaining with the employer because of a threat of layoff, such that a "bad contract" was tentatively agreed to by SEIU, Local 502 representatives, including Mike Royal, Greg Hattaway, Robert MacDonagh and Tim Calhoun. In addition, SEIU, Local 502 claims that it has been adversely affected because it engaged in collective bargaining with the employer during the pendency of the representation petition.

The Unfair Labor Practice Charge should not be allowed to block an election sought by employees who have demonstrated a sufficient show of interest in POAM to have a representation election. In the pre-election conference which led to the consent election agreement, it was acknowledged by all parties that Wayne County and the incumbent union were and would be engaging in bargaining during the period prior to the election. POAM did not oppose continued bargaining on the basis that after certification of a new representative, any agreement would be subject to nullification.

To the extent a party has a right to object to the bargaining which occurred, and who then could have filed an Unfair Labor Practice Charge, it would be the Petitioner, POAM, not SEIU, Local 502. POAM has no such objection for the reason that the election should not be blocked, so as to entitle employees to make the determination that they have long sought; as well as POAM's recognition from the pre-election conference that bargaining at some point would be taking place.

It is entirely self-serving for SEIU, Local 502 to have participated in collective bargaining and thereafter attempt to allege that such bargaining blocks an election in which SEIU is the incumbent union. Such self-serving conduct should not be allowed to block an election filed by representation petition of another union. Notwithstanding the aforesaid, and without passing judgment on the severity of the issue of layoff, there is little dispute that when an issue of layoff arises, absent contractual prohibition, the employer controls the issue of whether layoffs will take place. As a result, a union, especially SEIU, Local 502 in this matter, cannot claim that the employer's action constitutes anything other than tough-nosed impact bargaining tactics. SEIU, Local 502 is pouting, which is more a reflection of the lack of quality and competence of SEIU, Local 502 in its representation, than any acts of coercion by the employer.

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We attach hereto correspondence of May 19, 2008 transmitted by Michael Royal, one of the agents of SEIU, Local 502 referenced in the Unfair Labor Practice Charge, which asserts that continuing bargaining (under a purported pending compulsory arbitration proceeding) was ongoing at the time the petition was filed, such that the petition should be barred. SEIU Local 502 retreated from that position during the pre-election conference as POAM asserted that no compulsory arbitration petition was pending to bar the election and that any continuing bargaining between the employer and the union would not be opposed, subject to nullification in the event a change in certified representative through the election process occurred.

We also attach a September 26, 2008 letter, again from Michael Royal, agent for SEIU Local 502, to the membership describing the bargaining which occurred with the County. The tenor of the correspondence to the membership does not reflect any coercive action, instead, it asserts that the negotiations between the employer and the union involved the typical give and take nature of collective bargaining.

We also attach an October 2, 2008 letter to the membership, once again from Mike Royal, SEIU Local 502 representative. This letter "plays-up" the tentative agreement reached with the employer as purportedly gaining a retirement plan benefit in exchange for a reduction in manpower only through attrition. The totality of the correspondence negates the assertion in the unfair labor practice charge of coercive bargaining.

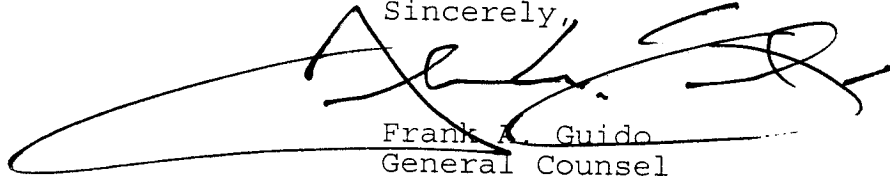
It is readily apparent that SEIU, Local 502 has tactically participated in bargaining with the employer and then reached a tentative agreement with the intent to utilize its own voluntary participation to now block an election, thereby furthering its self-serving interest as the incumbent union. Such tactics should not be allowed, especially when it is recognized that the Unfair Labor Practice hearing process could take many weeks, if not months, to schedule, then conduct a hearing, reach a recommended decision and thereafter a commission ruling subject to further right of appeal.

Based on the aforesaid, it is POAM's position that it would be a travesty for the election process to be blocked under the facts asserted in the Unfair Labor Practice Charge, even if it is assumed, for argument purposes only, that the facts are true. POAM

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respectfully requests that its motion be granted or, in the alternative, that MERC exercise its administrative authority to negate treatment of the ULP charge as a blocking charge to the representation election.

Sincerely,



Frank A. Guido  
General Counsel

FG/jlh

Enclosures

cc: William Birdseye  
Ed Jacques  
Robert Strassberg  
Patrick J. Rorai, Esq.