

In the Matter of CITY OF CAMBRIDGE

and

COMMITTEE FOR HONEST AND EFFECTIVE
REPRESENTATION

and

TEAMSTERS, LOCAL 25

Case No. MCR-02-4997

46.16 *showing of interest*
93.13 *"blocking charges"*
93.3 *petition for certification*

January 30, 2003

Helen A. Moreschi, Chairwoman
Peter G. Torkildsen, Commissioner

Phillip Collins, Esq. *Representing the City of
Cambridge*
Noah Mandell, Esq. *Representing the Committee for
Honest and Effective
Representation*
Matthew Dwyer, Esq. *Representing Teamsters, Local
25*

DECISION AND DIRECTION OF ELECTION¹

Statement of the Case

On September 24, 2002, the Committee for Honest and Effective Representation (COHERE) filed a petition with the Labor Relations Commission (Commission) pursuant to Section 4 of M.G.L. c.150E (the Law) seeking to represent employees in "public works, clerical, traffic and parking, electrical, parking control officers, and emergency communication employees" employed by the City of Cambridge (City). On September 30, 2002, the Commission notified the City and Teamsters, Local 25 (Local 25), the union currently representing the petitioned-for employees, that COHERE had filed a sufficient showing of interest and that the petition raised a question of representation. On October 21, 2002, Local 25 filed a Motion to Intervene in these proceedings.

On November 15, 2002, Local 25 filed a Motion to Dismiss COHERE's petition on the grounds that: 1) the petition did not satisfy the required showing of interest and 2) the petitioned-for employees were an inappropriate unit. On the same date, Local 25 also filed a prohibited practice charge (Case No. MUP-02-3619) alleging that the City was refusing to implement the contract between the City and Local 25 in violation of Section 10(a)(5) and (1) of Massachusetts General Laws, Chapter 150E (the Law) and re-

quested that the charge block an election among the petitioned-for employees.

At a scheduled hearing on November 20, 2002, the parties stipulated to the composition of the proposed unit. The City subsequently filed its response to Local 25's charge in Case No. MUP-02-3619 and its position regarding Local 25's request to treat the charge as a blocking charge to an election.

Decision

Motion to Dismiss

First, Local 25 requests that the Commission dismiss the petition because COHERE has not complied with Commission Rule and Regulation 456 CMR 14.05(2) by submitting a fifty percent (50%) showing of interest for the proposed bargaining unit of approximately three hundred eighteen (318) employees. In support of its request, Local 25 submitted several documents with signatures from bargaining unit members revoking their authorization on the showing of interest submitted by COHERE with its petition. However, the Commission had previously determined that COHERE's showing of interest was sufficient and had so notified the City and Local 25 on September 30, 2002. Once the Commission has made its showing of interest determination, it does not allow bargaining unit members to revoke their authorization in support of a pending petition. If bargaining unit members have changed their minds about supporting a particular employee organization after the petition is filed and prior to the Commission's election, those members will have an opportunity to vote for the bargaining representative of their choice when they vote by secret ballot during the Commission's election.

Second, Local 25 claims that COHERE has petitioned for an inappropriate bargaining unit. However, COHERE clarified its bargaining unit position at the Commission's hearing on November 20, and the parties stipulated to the appropriate bargaining unit.

Blocking Charge

In order to block an election, any party to a representation petition may file a motion requesting that a pending prohibited practice charge block an election. Local 25 requests that the Commission consider its charge against the City in Case No. MUP-02-3619 as a blocking charge. Commission Rule and Regulation 456 CMR 15.12 provides that, except for good cause, the party requesting the Commission to treat a pending prohibited labor practice charge as a blocking charge must submit sufficient evidence to permit the Commission to find probable cause to believe that the conduct alleged in the prohibited practice charge: 1) occurred; 2) violated M.G.L. c.150E or c. 150A; and 3) the alleged unlawful conduct may interfere with the conduct of a valid election. We have notified the parties by letter that we have decided that there is no probable cause to believe that the City has violated the Law in Case No. MUP-02-3619, and, accordingly, that we dismissed Local 25's prohibited practice charge against the City. Having dismissed Lo-

1. Pursuant to 456 CMR 13.02(1), the Commission has designated this case as one in which the Commission shall issue a decision in the first instance.

cal 25's charge against the City, we find that Local 25's request to treat its prohibited practice charge as a blocking charge does not satisfy the requirements of Commission Rule and Regulation 405 CMR 15.12. Therefore, we deny Local 25's request to block the election in the petitioned-for bargaining unit.

Conclusion and Direction of Election

We, therefore, conclude that a question of representation has arisen concerning certain employees of the City of Cambridge and that the following employees constitute an appropriate bargaining unit for collective bargaining within the meaning of Section 3 of the Law.

All regular full-time and permanent part-time non-professional employees of the City of Cambridge who work sixteen (16) or more hours per week in their department in the following units:

- A. Public Works (including the non-clerical library and Print Shop employees);
- B. Clerical unit;
- C. Traffic and Parking unit;
- D. Electrical Department;
- E. Parking Control Officers;
- F. Emergency Communications; and
- G. Water treatment plant operators;

but excluding all temporary employees hired for a term not to exceed six months, all high school student pages, student interns, seasonal, casual, managerial and confidential employees, and all other employees.

IT IS HEREBY DIRECTED that an election by secret mail ballot shall be conducted to determine whether a majority of the employees in the above-described bargaining unit desires to be represented by the Committee for Honest and Effective Representation or by Teamsters, Local 25 or by no employee organization. The eligible voters shall include all those persons within the above-described unit whose names appear on the Employer's payroll for the payroll period for the week ending January 18, 2003 and who have not since quit or been discharged for cause. To ensure that all eligible voters shall have the opportunity to be informed of the issues and the statutory right to vote, all parties to this election shall have access to a list of voters and their addresses which may be used to communicate with them.

Accordingly, IT IS HEREBY FURTHER DIRECTED that two (2) copies of an election eligibility list containing the names and addresses of all eligible voters must be filed by the City of Cambridge with the Executive Secretary of the Commission, 399 Washington Street, 4th floor, Boston, MA 02108 not later than seven (7) days from the date of this direction of election. This list must be either electronic (e.g. Microsoft Access or Excel) or in the form of mailing labels.

The Executive Secretary shall make the list available to all parties to the election. Failure to submit this list in a timely manner may result in substantial prejudice to the rights of the employees and the parties, therefore, no extension of time for filing the list will be granted except under extraordinary circumstances. Failure to comply with this direction may be grounds for setting aside the election, should proper and timely objections be filed.

SO ORDERED.

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2003 JAN 18 10:00 AM
399 WASHINGTON ST
BOSTON MA 02108