

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

NORTH LAS VEGAS POLICE OFFICERS)	
ASSOCIATION, INC., GENE JONES,)	
PRESIDENT, FRANK ADAMS, VICE)	
PRESIDENT, JIM ROWLEY, TREASURER,)	
SHIRLEY FALLON, SECRETARY; JAY)	No. A-001673
EHLERS, FRANK VADEN, EUGENE STEVENS,)	
DIRECTORS; WARREN VANLANDSCHOOT,)	
MIKE MACBAN, and RON LUSCH, MEMBERS)	
OF BARGAINING COMMITTEE,)	
)	
Complainants,)	
)	
vs.)	
)	
CITY OF NORTH LAS VEGAS,)	
)	
Respondent.)	

D E C I S I O N

This complaint was filed because the respondent, through its City Manager, directed a formal reprimand to complainant Gene Jones and a letter (hereinafter referred to as the general letter) to the officers, directors and members of the bargaining committee of the North Las Vegas Police Officers Association expressing dissatisfaction with their conduct and indicating that recognition of the employee organization would be withdrawn for any future similar conduct.

The complainants seek the rescission and removal of the reprimand from Mr. Jones' personnel file and the rescission of the general letter and its removal from the personnel files of any Association member into which it may have been placed. They further request an order directing the respondent to desist from interfering with the complainants' exercise of their rights under Chapter 288 of the Nevada Revised Statutes.

On July 14, 1974, the complaint was heard before the Board and submitted for determination after the filing of post-hearing briefs.

The events which culminated in the reprimand and general letter commenced with the collective bargaining between the Association and the City in an attempt to reach an agreement for the fiscal year 1973-74. Unable to resolve all issues, the parties requested and received binding factfinding from the Governor on certain issues pursuant to NRS 288.200(7). An impartial factfinder was subsequently selected according to the statutory directives.

During May of 1973, a two page letter entitled, "An Open Letter to the Citizens of North Las Vegas" was prepared and signed "The North Las Vegas Police Officers Assoc. (Ninety-three concerned Police Officers)." The open letter was released to the press and expressed concern with problems in and inadequacies of the City's police department. The column of Paul Price in the Las Vegas Sun datelined May 20, 1973, discussed the letter at some length.

Subsequently, on May 21, Mr. Jones attempted to speak on the problems before the City Council of North Las Vegas but was denied permission to address the Council as he had failed to timely place his name on the agenda. He later complied with the requirement and spoke at the subsequent meeting on June 4, 1973.

During this course of events, the views of both the Association and the City received extensive coverage in the press.

The situation culminated in the issuance of the reprimand and general letter here in issue.

Chapter 288 of the Nevada Revised Statutes delineates in its prohibited practices provisions three principal types of conduct on the part of a local government employer or its representatives which constitute a violation of the individual

employee's rights to join, refrain from joining or participating in an employee organization.¹ The thrust of all three provisions is that the conduct of the employer is improper if it is taken against the employee because of his activities relative to an employee organization as opposed to actions taken as an individual local government employee and unrelated to any such organization.

We must therefore make an initial determination whether Mr. Jones' conduct was that of an individual employee of the respondent City or as a spokesman for the employee organization of which he was President.

Mr. Jones' testimony, uncontraverted in the record, is that the open letter to the people of North Las Vegas was prepared and distributed at the direction of the members of the Association and that he was directed by those members to appear before the City Council and air their concerns. Further testimony, likewise not rebutted, disclosed that Mr. Jones alone did not prepare the open letter; several members of the Association who did participate in its preparation were never reprimanded nor was any investigation undertaken to establish their identities or the extent of their participation in the action.

1. NRS 288.270(1) provides in part:

1. It is a prohibited practice for a local government employer or its designated representative willfully to:

(a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

...
(c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharge or otherwise discriminate against any employee ... because he has formed, joined or chosen to be represented by any employee organization.

Mr. Clay Lynch, the City Manager of North Las Vegas, testified that he determined that Mr. Jones was responsible for the preparation and distribution of the open letter because he was President of the Association. Further, Mr. Lynch stated that he believed that Mr. Jones was acting both as an individual employee and as a representative of the Association when he participated in the preparation and distribution of the open letter and spoke before the City Council.

The record before us therefore substantiates a finding that the reprimand was issued to Mr. Jones because of his conduct while acting in the capacity of a member of an employee organization, not in his capacity as an individual employee of the respondent.

The respondent has raised several matters by way of defense, principal among them that Mr. Jones' conduct was in violation of municipal ordinances and department rules of the North Las Vegas Police Department. It is not within the jurisdiction of this Board to construe municipal ordinances or departmental rules and regulations nor to determine whether or not a matter might properly be brought before the Civil Service Commission of a municipality. We simply note that no action was taken before any other forum and that a complaint which we deem to be within our jurisdiction was filed before us. We have handled the case accordingly. See, Town of Dedham, et al., vs. Labor Relations Commission, et al., 563 GERR E-1 (Mass. Sup. Jud. Ct., 1974).

We are likewise unpersuaded that the conduct of Mr. Jones was in violation of the provisions of NRS 288.220(1) or that any other defenses asserted mitigate the conduct of the City Manager in issuing the reprimand.

The general letter issued to the officers, directors and members of the bargaining committee speaks for itself, concluding

with the statement, "...any future similar conduct by officers, directors, or members of the association will leave no other recourse than to withdraw recognition." We find the letter to be a continuing threat and impediment to the right of these employees to freely exercise their rights under Chapter 288 of the Nevada Revised Statutes and thus in violation of NRS 288.270(1).

FINDINGS OF FACT

1. That Gene Jones is the President of the North Las Vegas Police Officers Association, an employee organization duly recognized by the City of North Las Vegas,

2. That Gene Jones, in his capacity as a representative of and a member of the North Las Vegas Police Officers Association and at the direction of the Association, prepared and distributed to the press, with the assistance of other unnamed individuals who were members of the Association, "An Open Letter to the Citizens of North Las Vegas."

3. That Gene Jones, in his capacity as a representative of and a member of the North Las Vegas Police Officers Association and at the direction of the Association, spoke before the City Council of the City of North Las Vegas on June 4, 1973.

4. That on June 7, 1973, the City Manager of the City of North Las Vegas acting on behalf of the municipality prepared a formal reprimand which was given to Mr. Jones and placed in his personnel file. Said reprimand related to Mr. Jones' conduct in the preparation and distribution of the open letter and his appearance before the North Las Vegas City Council.

5. That on June 7, 1973, the City Manager of the City of North Las Vegas acting on behalf of the municipality prepared and distributed to Gene Jones, Frank Adams, Jim Rowley, Shirley Fallon,

Jay Ehlers, Karen George, Frank Vaden, Eugene Stevens, Warren VanLandschoot, Mike MacBan and Ron Lusch a letter expressing dissatisfaction with their conduct in going to the press and stating that any future similar conduct would result in the withdrawal of recognition of the employee organization.

CONCLUSIONS OF LAW

1. That the matters raised in this complaint are properly within the jurisdiction of the Local Government Employee-Management Relations Board.

2. That the actions of the individual complainants were taken as members of the complainant employee organization and are protected by the provisions of Chapter 288 of the Nevada Revised Statutes.


3. That the conduct of the respondent City through its City Manager in issuing the reprimand to Gene Jones and the general letter to the officers, directors and members of the bargaining committee of the complainant Association was in violation of the provisions of Chapter 288 of the Nevada Revised Statutes.

The respondent is ordered to rescind, in writing, and remove from the personnel file of Gene Jones the reprimand issued by Mr. Clay Lynch, City Manager, and dated June 7, 1973. The respondent is further ordered to rescind, in writing, the general letter of June 7, 1973, issued by Mr. Clay Lynch to: Gene Jones, Frank Adams, Jim Rowley, Shirley Fallon, Jay Ehlers, Karen George, Frank Vaden, Eugene Stevens, Warren VanLandschoot, Mike MacBan and Ron Lusch. A copy of each written rescission is to be filed with

this Board as proof of compliance with our order.

Dated this 4th day of November, 1974.


Harriet Trudell, Chairman


John T. Gojack, Vice Chairman