

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

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In the Matter of the Application
to THE CITY OF RENO by RENO FIRE
DEPARTMENT ADMINISTRATORS ASSOCIA-
TION for Recognition as an Employee
Organization.

CASE NO. A1-045402

DECLARATORY ORDER

For the Petitioner: Robert L. Van Wagoner, Esq., City Attorney
Frank Cassas, Esq., of Hill, Cassas, delipkau
& Erwin
For the Intervenor: Robert E. Dickey, Jr., Esq., of Bowen, Stafford,
Swafford, Hoffman & Test
For the Respondent: John N. Schroeder, Esq.
For the EMRB Board: Salvatore C. Gugino, Esq.
Tamara Barengo
Jeffrey L. Eskin, Esq.

STATEMENT OF THE CASE

This matter is before the Board upon a Petition for Declaratory Relief filed by the City of Reno (hereinafter referred to as CITY). The CITY's Petition alleges that it has received an application by the Reno Fire Department Administrators' Association (hereinafter referred to as RFDA) seeking recognition as the exclusive bargaining agent for the battalion chief and fire marshal positions in the Reno Fire Department. The Petition also alleges that the Reno Fire Fighters, Local 731, I.A.F.F. (hereinafter referred to as LOCAL 731), is currently recognized as the bargaining agent for the administrative employees of the Reno Fire Department and seeks guidance as to which of the two competing organizations should be recognized as the exclusive bargaining agent for those employees. Subsequent to the filing of its Petition, the CITY granted the RFDA recognition as the exclusive bargaining agent for a bargaining unit comprised of battalion chiefs and the fire marshal. Recognition was expressly conditioned upon review by this Board. On December 12 and 13, 1985, a hearing was held on the CITY's Petition, the hearing having been properly noticed and posted pursuant to the provisions of Nevada's Open Meeting

1 law.

2 DISCUSSION

3 1. THE POSITIONS OF BATTALION CHIEF AND FIRE MARSHALL
4 IN THE RENO FIRE DEPARTMENT CONSTITUTE A SEPARATE
5 ADMINISTRATIVE BARGAINING UNIT.

6 LOCAL 731 has argued that, because there is only one contract for the
7 employees it represents in the Reno Fire Department, all of those employees
8 are in a single bargaining unit and the RFDAA's application should be denied
9 as a sub-group petition. Thus, resolution of the CITY's petition first re-
10 quires a determination of the appropriate bargaining unit for the employees
11 in question. The primary criterion in making that determination is community
12 of interest among the employees concerned. NRS 288.170(1). Supervisory and
13 administrative employees cannot, however, be members of the same bargaining
14 units as the employees under their direction. Id.

15 In 1972, the Board made a determination of the appropriate bargaining
16 units in the Reno Fire Department in accordance with the circumstances present
17 at that time. See, In the Matter of Local 731 of I.A.F.F. and the City of
18 Reno for Determination of Bargaining Unit, Item No. 4, (1972). Finding the
19 existence of unusual circumstances, it was decided that the officers of the
20 Reno Fire Department -- lieutenant through battalion chiefs and other super-
21 visors including the fire marshall -- should all be part of the same bargain-
22 ing unit. Id. Since that time, however, the administrative duties of the
23 battalion chiefs and fire marshall have been significantly increased. Part
24 of the increase is the result of the elimination of the position of assistant
25 chief and the reassignment of the duties of that position to the battalion
26 chiefs and fire marshall. As a consequence of the increase in duties, the
27 battalion chiefs and fire marshall routinely supervise the other officers of
28 the Reno Fire Department.

29 It has also been amply demonstrated that many of the factors relied upon
30 in Item No. 4, such as personal desire, no longer exist. Moreover, the CITY
31 and LOCAL 731 have recognized the special role of the battalion chiefs and
32 fire marshall by separately classifying those positions as administrative in
all collective bargaining agreements from 1977 to the present time. Therefore,

1 the battalion chiefs and fire marshall should be placed in an administrative
2 bargaining unit separate and distinct from all other employees in the Reno
3 Fire Department. To the extent that Item No. 4 or any other decision of this
4 Board holds otherwise, it is hereby reversed.

5
6 2. THE RFDAA IS ENTITLED TO RECOGNITION AS THE EXCLUSIVE
7 BARGAINING AGENT FOR THE ADMINISTRATIVE BARGAINING
8 UNIT OF THE RENO FIRE DEPARTMENT.

9 The RFDAA has submitted all documents required by NRS 288.160 for recog-
10 nition, including a verified membership list showing it represents a majority
11 of the employees in the administrative bargaining unit. Despite allegations
12 that the members of the RFDAA were wrongfully enticed by the CITY to quit
13 LOCAL 731, the evidence is overwhelming that there was no such enticement by
14 the CITY and that the members of the RFDAA quit because of their dissatis-
15 faction with LOCAL 731. Further, LOCAL 731's loss of majority status among
16 the members of the administrative bargaining unit and its adequate notice of
17 all relevant events foreclose its other arguments in opposition to recognition
18 of the RFDAA. See NRS 288.160(3)(c); In the Matter of the Reno Police Pro-
19 tection Association v. The City of Reno, Item No. 120, (1980); Nevada Classi-
20 fied School Employees Association, Carson City Chapter No. 4 v. The Carson
21 City School District, Item No. 99, (1980). Consequently, the CITY was justi-
22 fied in granting recognition to the RFDAA as exclusive bargaining agent for
23 the administrative bargaining unit and withdrawing such recognition from
24 LOCAL 731.

25 FINDINGS OF FACT

26 1. The Petitioner, the CITY OF RENO, is a local government employer as
27 defined in N.R.S. Chapter 288.

28 2. Respondent, RENO FIRE FIGHTERS, LOCAL 731, I.A.F.F., and Intervenor,
29 RENO FIRE DEPARTMENT ADMINISTRATORS' ASSOCIATION, are local government employee
30 organizations as defined in N.R.S. Chapter 288.

31 3. The positions of battalion chief and fire marshall in the Reno Fire
32 Department share a community of interest which warrants their designation as

1
2 a separate administrative bargaining unit.

3 4. LOCAL 731 did not have majority status in the Reno Fire Department's
4 administrative bargaining unit at the time of the RFDAA's application for
5 recognition and does not have majority status at the present time. Loss of
6 LOCAL 731's majority status was not the result of enticement by the CITY.

7 5. The RFDAA has submitted all documents required for recognition by
8 NRS 288.160 and is comprised of a majority of the members of the Reno Fire
9 Department's administrative bargaining unit.

10 CONCLUSIONS OF LAW

11
12 1. To the extent that these conclusions of law contain findings of
13 fact, they are hereby incorporated into that portion of this decision and
14 vice versa.

15 2. Pursuant to the provision of NRS Chapter 288, this Board has and
16 retains jurisdiction over the parties and subject matter of this action.

17 3. The CITY correctly withdrew recognition from LOCAL 731 as exclusive
18 bargaining agent for the administrative bargaining unit of the Reno Fire
19 Department, comprised of battalion chiefs and the fire marshall.

20 4. The RFDAA is entitled to recognition as exclusive bargaining agent
21 for the administrative bargaining unit in the Reno City Fire Department pur-
22 suant to provisions of NRS 288.160.

23 5. Each of the parties to this action should bear its own attorney's
24 fees and costs.

25 O R D E R

26
27 From the foregoing Discussion, Findings of Fact and Conclusions of Law,

28 IT IS HEREBY ORDERED as follows:

29 1. The CITY OF RENO has Board permission, effective January 30, 1986,
30 to withdraw recognition from Reno Fire Fighters, LOCAL 731, I.A.F.F. as the
31 exclusive bargaining agent for the administrative bargaining unit of the Reno
32 Fire Department, comprised of battalion chiefs and the fire marshall. This

1 ruling does not affect Reno Fire Fighters, Local 731, I.A.F.F.'s representa-
2 tion on behalf of other existing bargaining units.

3 2. The RENO FIRE DEPARTMENT ADMINISTRATORS' ASSOCIATION is entitled to
4 recognition, effective January 30, 1986, as the exclusive bargaining agent of
5 the administrative unit in the Reno Fire Department.

6 3. Each of the parties to this action shall bear its own attorney's
7 fees and costs.

8 DATED this 11th day of April, 1986.

9
10 LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

11 By Tamara Barengo
12 TAMARA BARENGO, Chairman

13 By Jeffrey L. Eskin
14 JEFFREY L. ESKIN, Vice Chairman

15 By Salvatore C. Gugino
16 SALVATORE C. GUGINO, Member

17
18
19 Distribution:
Certified Mail:

20 ROBERT E. DICKEY, JR., Esq.
21 Bowen Swafford Hoffman & Test
22 290 So. Arlington Ave.
Reno, NV 89501
23 Attorney for Intervenor

FRANK CASSAS, Esq.
Hill Cassas deLipkau
& Erwin
One E. Liberty St., #504
Reno, NV 89505
Attorney for Petitioner

JOHN N. SCHROEDER, Esq.
436 Court Street
Reno, NV 89501
Att'y. for Respondent

24 ROBERT L. VAN WAGONER, Esq.
25 Reno City Attorney
PO Box 1900
Reno, NV 89505
26 Attorney for Petitioner

27 xc: Board Members
Jon L. Johnson, IAFF #731
28 Interested Parties
29 File
30
31
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