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STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

ANDREW S. LEVIN
ACTING DIRECTOR

August 10, 2010

VIA ELECTRONIC MAIL & U.S. MAIL

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Southfield, Michigan 48034-8460

Ed Jacques
Director, Member Services
Police Officers Association of Michigan
27056 Joy Road
Redford, Michigan 48239-1949

Re: City of Detroit/POAM/DEMSEA
MERC Case Nos. R10 F-065 and D09 F-0703

Dear Mr. Radtke and Mr. Jacques:

At its meeting yesterday, the Michigan Employment Relations Commission reviewed the position statements filed by the Detroit Emergency Medical Services Association (DEMSEA) and by the Police Officers Association of Michigan (POAM) concerning DEMSEA's Petition for Representation Proceedings and POAM's Petition for Act 312 Arbitration. Copies of those position statements are attached.

The Commission determined that its Elections Officer will process the Petition for Representation Proceedings in accordance with MERC's usual procedure; hence, Mr. McBride will continue with his investigation in an effort to arrange a Consent Election. If issues remain, he will send this matter for an expedited hearing before a SOAHR ALJ. Finally, the Commission determined that the Act 312 Petition will be processed.

In reaching its decisions, the Commissioners discussed the *Ingham County* case at 18 MPER p. 68, in which the ALJ opined that a challenging union should have a reasonable time after expiration of the certification year to file a representation petition. They also noted that in a case as this that involves an intersection and a clash of MERC processes, it is important to consider the particular circumstances and to determine which party's interest is more deserving of protection under PERA.

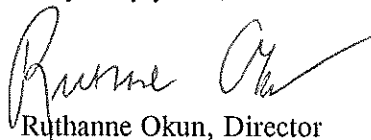
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In accordance with the Commission's direction, Mr. McBride will contact the parties in his continued investigation and processing of the Representation Petition. At the same time, a panel of Act 312 arbitrators from which to select will be sent to POAM and the City, and they should expect to be contacted by the mediator.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ruthanne Okun", with a long, sweeping flourish extending to the right.

Ruthanne Okun, Director
Bureau of Employment Relations/MERC

cc: Joe Martinico, Director of Labor Relations, City of Detroit
Christine Dardarian, MERC Chair

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August 2, 2010

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Ruthanne Okun
Director of Bureau of Employment Relations
Michigan Employment Relations Commission
3026 W. Grand Blvd., Suite 2-750
Detroit, MI 48202

Re: Case No. R10 F-065
City of Detroit and DEMSA and POAM

Dear Ms. Okun:

This is the position statement of the Detroit Emergency Medical Services Association ("DEMSA") in the above-referenced matter. On June 28, 2010, DEMSA filed a Petition for Representation Election Proceedings accompanied by authorization cards from more than 30% of the employees in the bargaining unit. The incumbent collective bargaining representative is the Police Officers Association of Michigan (POAM). POAM was certified as the bargaining representative on June 1, 2009.

In the 14 months POAM has been bargaining representative, it has never made a contract proposal to the City of Detroit. The parties have only met for negotiations on two or three occasions. The only tentative agreement reached between POAM and the City was related to an employee loan program which the City offered to all of its bargaining units. On about May 10, 2010, POAM filed for mediation. No mediation has ever occurred between the City of Detroit and POAM. On about June 12, 2010, POAM filed a Petition for Act 312 Arbitration ("Act 312 Petition") with the Commission.

Act 312 was not intended to supplant the collective bargaining that takes place between the parties; it is meant to be the final step in the collective bargaining process. Parties are only supposed to bring the issues that were previously considered during bargaining and mediation to an Act 312 Arbitration. An Act 312 Petition only can be filed 30 days after submission of the contract dispute to mediation. The Act 312 Petition also must include a copy of the last offer of settlement made by each party.

KLIMIST, McKNIGHT, SALE, McCLOW & CANZANO, P.C.
Attorneys at Law

Ruthanne Okun
August 2, 2010
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Later in the decision, the Commission observed that:

Since its adoption in 1978, the Act 312 bar policy has led to a proliferation of Act 312 Petition filings, many of which precede any negotiations or mediation and appear to be for the sole purpose of insulating incumbent unions from challenge. Only 25% of the Act 312 Petitions filed result in the issuance of an arbitrator's award. This imposes a burden that is unrelated to this Commission's statutory responsibilities. Whether we should continue to accept this burden is a matter that deserves closer scrutiny.

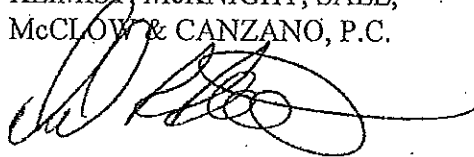
(p. 5)

POAM's action here is exactly the type of abuse of Act 312 Petitions that the Commission questioned in *Brownstown Township*. POAM filed its Act 312 Petition for the sole purpose of insulating it from a challenge from DEMSA. Therefore, POAM's Act 312 Petition does not serve the purpose of Act 312 and it should not bar an election.

For the above stated reasons, DEMSA respectfully requests that the Commission process the representation petition filed by DEMSA and dismiss the Act 312 Petition filed by POAM.

Very truly yours,

KLIMIST, McKNIGHT, SALE,
McCLOW & CANZANO, P.C.



David R. Radtke

DRR/kap

cc: Sidney McBride (via e-mail)
Wisam Zeineh (via e-mail)

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August 5, 2010

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Sidney McBride
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Dear Mr. McBride:

I am in receipt of your letter requesting a Position Statement in case no. R10 P-065. In your letter you state that POAM views 14 days as a reasonable period for DEMSA to file a representation petition after the certification period had expired. This is certainly true, but not the crux of our position.

POAM asserts that the 312 filing itself acts as a bar to the election process. DEMSA's argument that the 312 filing by POAM is a tactical effort to delay an election is without merit by the simple fact that POAM could have filed its 312 petition several months ago and effectively barred any representation petitions long into the future.

If you have any questions, please feel free to call me.

Respectfully,

POLICE OFFICERS ASSOCIATION
OF MICHIGAN

Ed Jacques
Director, Member Services

REG/haj