

MAR 16 1982

COUNTY OF LOS ANGELES
EMPLOYEE RELATIONS COMMISSION

In the Matter of

FEDERATION OF PUBLIC SECTOR
WORKERS,

Charging Party

and

LOS ANGELES COUNTY EMPLOYEES
ASSOCIATION, LOCAL 660, SEIU

Respondent

UFC 24.1

BACKGROUND

On September 3, 1981 the Federation of Public Sector Workers ("Federation") filed an unfair employee relations charge against Los Angeles County Employees Association, Local 660, SEIU ("Local 660") and the County of Los Angeles, alleging a violation of Section 12(b)(1) of the Employee Relations Ordinance of the County of Los Angeles. The Employee Relations Commission set the matter for hearing before Sara Adler. Evidentiary hearings on the matter were held on November 4, 1981, December 2, 1981 and February 2, 1982 in the hearing room of the Employee Relations Commission. Briefs on the matter were submitted and received by the Hearing Officer on February 28, 1982.

APPEARANCES

For Local 660:

Helena Weiss, Esq.
Geffner & Satzman
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For the Federation:

Edward L. Faunce, Esq.
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RELEVANT PROVISION OF THE ORDINANCE

"Section 12. Unfair Employee Relations Practices.

- (b) It shall be an unfair employee relations practice for employee organizations or their representatives or members:
 - (1) To interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this Ordinance[.]"

PRELIMINARY MOTION

As a preliminary motion, Local 660 moved to have the County of Los Angeles ("County") rejoined as a Respondent Party. There is contradictory evidence in the record as to whether the Federation voluntarily dismissed, or the Employee Relations Commission ("ERCOM") ordered the dismissal of the County. Local 660 urged that the County was an indispensable party because the County had ordered the Federation to allow the staff of Local 660 to attend Federation meetings when held at County facilities.

The County is not responsible for the behavior of the staff members of Local 660, the complaints about which underlie the instant charge, nor are they necessary for any relief which may be ordered. On that basis, the Hearing Officer would recommend that the motion to rejoin the County as a party Respondent be denied.

CONTENTIONS OF THE PARTIES

The Charging Party contends that:

1. On six occasions from August 18, 1981 through August 28, 1981 staff members of Local 660 appeared at meetings called by the Federation for employees of the County and through loud discussion, name calling and belligerent questions and comments were so disruptive that the employees were intimidated and coerced and the meetings could not go forward with their purpose of informing the

employees about the reasons why they should consider joining the Federation, which is challenging Local 660 to be the employees' exclusive representative.

2. The Federation has the right to have closed meetings for the employees from which staff members of Local 660 are barred.

The Respondent contends that:

1. Whatever disruption occurred at those meetings was the direct and predictable result of the actions of the Charging Party and that nothing that occurred resulted in the intimidation or the coercion of any employees.

2. They believe that the staff members had a right to attend those meetings and that the County agreed with them when it ordered the Federation and the responsible employee at each of the facilities to allow Local 660 staff members to attend the Federation meetings.

STATEMENT OF FACTS

The facts in this matter are not in serious dispute and the nature of the facts will be summarized rather than a meeting by meeting report.

The six meetings here in question were called by the Federation to explain to County employees why they believed that Local 660 was not providing adequate representation and why the Federation should therefore replace it as the exclusive representative. At each of the meetings, one or more staff members of Local 660 appeared and actively participated by asking numerous questions, answering allegations of incompetent representation and engaging in sometimes very loud and angry colloquy with representatives of the Federation including both County employees and employees of the Federation. None of the meetings went smoothly and several ended in disarray. Local 660 staff members testified that they were present at the request of some of their members.

DISCUSSION

There has been considerable argument presented to the Hearing Officer to the effect that the staff members of Local 660 either do or do not have the right to attend meetings called by the Federation for County employees, but neither party introduced any evidence of the basis of the County's determination that staff members must be admitted. While it is easy to imagine various grounds for this determination, the Hearing Officer is left in total ignorance of the one(s) relied upon by the County and will assume, therefore, that the staff members of Local 660 were properly present at the meetings.

Some of the meetings were held in "open spaces" such as lunch areas and others were in meeting or conference rooms. The structure of the meetings was fairly free with the audience being encouraged to ask questions at will and make comments when they wished. The Federation witnesses gave undisputed testimony that when the staff members of Local 660 were not present the meetings went calmly and comfortably.

It is clear, and unsurprising, that when Local 660 was alleged to be incompetent that the staff members took the opportunity to vociferously defend their record and that they were not loath to ask aggressive questions and make beligerent countercharges. It is also clear that at least Edward Faunce and John Caccavale rose to the bait and, in turn, became angry and loudly responsive. The parties, in their briefs, handled this by saying variously "Let he who is without sin, cast the first stone" and "Two wrongs don't make a right". In this respect, the Federation has the better quote.

There is no case cited to the Hearing Officer which is very useful in giving guidance in this situation. The cases cited

from the anal's of the NLRB were few and all had reference to incumbent union which engaged in many tactics of intimidation such as threats and acts of physical violence, threats of refusal to process grievances, ostentatious listing of members present at rival's organizing meetings and the like. Nothing of that magnitude occurred here, although it is clear that the staff members of Local 660 took the opportunity to disrupt the organizing meetings of the Federation by unduly active participation.

The Ordinance provides that an employee organization and it's representative may not interfere with, restrain or coerce employees in the exercise of their rights. While it does not appear that Local 660 restrained or coerced any employees, it does appear that the staff members interfered with the right granted employees in Section 4 in the Ordinance which guarantees that they will have the right to "form, join and participate in the activities of employee organizations of their own choosing."

CONCLUSION

After having examined the evidence and weighed the testimony and arguments presented by the parties, the Hearing Officer concludes that Local 660 has been guilty of an unfair employee relations practice as defined in Section 12 (b)(1).

RECOMMENDATION

The duly appointed Hearing Officer recommends that the Employee Relations Commission approve and adopt the following order:

"Los Angeles County Employees Association, Local 660. SEIU violated the Employee Relations Ordinance by interfering with employees right to form employee organizations of their choice.

Local 660 is ordered to cease and desist from interfering with organizing meetings of the Federation of Public Sector Workers. Local 660 staff members present at meetings called by the Federation may participate only by responding to questions specifically directed to them."

DATED: March 15, 1982

Respectfully submitted,

A handwritten signature in cursive script that reads "Sara Adler". The signature is written in dark ink and is positioned above the typed name.

Sara Adler, Hearing Officer