LOS ANGELES COUNTY

EMPLOYEE RELATIONS COMMISSION

In the Matter of	)	
	)	
JOINT COUNCIL OF LOS ANGELES COUNTY EMPLOYEES ASSOCIATION, LOCAL 660 AND SOCIAL SERVICES UNION, LOCAL 535, SEIU, AFL-CIO	)	
Charging Party	)	UFC 55.18
vs.	)	
DEPARTMENT OF PUBLIC SOCIAL SERVICES	)	
Respondent	)	
	)	

DECISION AND ORDER

A Joint Council of Local 660, LACEA and Local 535, SSU filed a charge against the Department of Public Social Services alleging the unfair employee relations practice of refusing to negotiate changes in terms and conditions of employment following a time and motion study (popularly referred to as the John Berry Project).

Pursuant to the rules of the Commission, the matter was duly referred to Hearing Officer Julius N. Draznin. Hearings were

regularly held before said hearing officer on March 8 and 11, 1977. The charging party was represented by Leo Geffner, Esq., of Geffner and Satzman, and the respondent by Ronald H. Voigt, Employee Relations Administrator of the County Department of Personnel.

At the opening of the hearing, the County representative objected to the proceeding on the ground that Employee Relations Ordinance Sections 5 and 6 specifically exclude the exercise of certain management rights from negotiation. He provided a copy of a letter from the CAO/Director of Personnel in which the latter took the position that unfair employee relations practice proceedings have unduly restricted the exercise of management rights. Then, after stating: "I'm certainly not in a position of coming here prepared to argue the jurisdiction or merits. I'm merely here to state the objection," the department's representative left the hearing and did not return.

Evidence was presented by the charging party and on the basis of the uncontested testimony received, the hearing officer submitted his findings of fact and recommendations to the Commission. The Commission has reviewed the entire record and, upon the evidence and argument therein, makes the following findings, decision and order.

FINDINGS OF FACT

In approximately August 1975, the County conferred with the

charging unions concerning a proposed time and motion study of the operations of Budget Clerks, Eligibility Workers, and their supervisors in the Department of Public Social Services. The study was to be financed with federal funds and was estimated to extend over a period of two years. The first year was to be devoted entirely to the study, and in the second year improvements and operations were to be undertaken in three of the department's offices. The unions agreed to cooperate and requested that before any terms and conditions of employment were changed, there be negotiations on the proposed changes. No significant changes in work practice were introduced in the first year; but various new rules were announced for work to be done during the following year. In December 1976, the unions repeated their request for negotiations on the proposed changes in terms and conditions of work. The department denied the request and proceeded to introduce the changes unilaterally.

The department did more than conduct a time and motion study. It made the following changes in conditions of employment and hours of work in its offices located in Inglewood, El Monte and the South Central District:

1. Eligibility Workers were required to convert their caseload in ways that were more time consuming and that had previously been performed by Budget Clerks (who were workers in another unit). They were required to pull material from hundreds of documents and to file more papers than they had dealt with before. This,

they said, increased their work load "tremendously."

2. Checking and approving work done, formerly a task performed by supervisors, was shifted to Eligibility Workers. They were required thereby to work extra time to complete their assigned caseloads.

3. Eligibility Workers were required to do phase sheets and to clear them through a Records and Identification Section, whereas previously those tasks were done by other workers; namely, Phase-sheet Clerks.

4. Eligibility Workers were required to screen cases and weed out obviously ineligible persons, tasks which previously had been performed by other workers called Screeners or Intake Workers.

5. Eligibility Workers were given the added functions of (a) reporting the number of times they referred to a new handbook, (b) recording the number of policy questions they asked their supervisors, and (c) filling out a weekly budget coding questionnaire.

6. The number of cases assigned to be handled by Eligibility Workers was previously computed as an average for a group of Intake Workers and was increased by a count of the number of intakes handled by each individual.

7. Eligibility Workers were scheduled to handle intakes every 45 minutes at times when the process required 55 to 60 minutes, so that on occasion there was no time for the customary rest breaks or lunch periods.

8. Because of the increased caseloads and longer time required to process cases, there resulted errors which increased the

number of phone calls and visits from clients. Other persons called "Approved Workers" were given some of the extra work; but Eligibility Workers bore the brunt of the added work.

9. Some employees were required to change their work schedules, adding half an hour a day, by starting earlier or leaving later.

10. The pressure of the additional work precluded some employees from taking their regular rest breaks and lunch breaks.

DECISION

These changes involved two elements on which the Employee Relations Ordinance expressly requires negotiation; namely, hours of work and conditions of employment. The increase in caseload and the addition of new duties are changes in conditions of employment. Although study and experimentation to increase efficiency are proper management functions, the Ordinance requires negotiation prior to the introduction of changes in the conditions of employment, and the changes listed above were substantial. Changes involving possible tension and job frustration are also matters of concern to employees on which the Ordinance requires at least prior consultation, and there was no evidence that this was done. Even more obvious than the requirement of negotiation on conditions of employment is the statutory requirement of negotiation on hours of work. In this case, the changes in caseload and new duties

deprived Eligibility Workers of customary rest breaks and added a half hour to their work day. There can be no doubt that the denial of negotiation on those matters constituted an unfair employee relations practice.

The challenge of the department to the jurisdiction of the Commission and its abandonment of the hearing under the above mentioned circumstances were a clear abnegation of its official responsibility. The County produced no brief or points and authorities in support of its position. It also deprived itself of an opportunity to cross examine union witnesses and to introduce testimony on its own behalf on the factual issues. The reference to Sections 5 and 6 of the Ordinance, in light of the clear language of the entire Ordinance and the court decisions on the subject, was a complete *non sequitur*. Those sections spell out management prerogative; but they do not, and cannot, negate the patent obligations contained in the express requirements to confer on "all matters affecting employee relations, including those that are not subject to negotiation" and to negotiate on "wages, hours and other terms and conditions of employment." (Section 6.)

The very subject of negotiability of Social Worker caseloads was considered by the Court of Appeal in the District for Los Angeles,[1/] and that court affirmed the obligation to negotiate on that subject. The case involved the same Department of Public

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1/ *Los Angeles County Employees Association Local 660 v. County of Los Angeles,* 33 Cal. App. 3d 1 (1973).

Social Services and the same type of Eligibility Workers as are now before the Commission. The court quoted the Sections 5 and 6 of the Ordinance, raised again in this proceeding, and found unequivocally that the exclusive rights of management set forth in those sections were not inconsistent with negotiation and did not excuse a refusal to negotiate over caseloads. The decision noted the fortuitous comment on caseload negotiation contained in the early report of the Consultants Committee (which the Board of Supervisors had accepted as a statement of its legislative intent) which read: ". . . a demand for a lower maximum case load for social workers, for example, although theoretically related to the level of service to be provided, might be much more directly related to terms and conditions of employment." The court went on to say, "The ordinance commits the county to negotiate wages, hours and conditions of employment, though affirming the exclusive right of the county to make certain management decisions. The county does not give up these management powers when it engages in the negotiations which are required by the ordinance." Thereupon, the court affirmed a Writ of Mandate ordering the County to negotiate maximum caseloads for Eligibility Workers, as ordered by the Commission.

Were there any legitimate question concerning the relevance of that appellate court decision to this case, the courts were available for the resolution of that or any legal issue. The mere assertion of a lack of jurisdiction, unsupported by any memorandum or citation of authorities, can never be acceptable procedure.

In 1975, the Board of Supervisors sought to put at rest a

controversy over the binding effect of ERCOM decisions. The Board amended the Employee Relations Ordinance to provide that an ERCOM "order shall be binding on the County" (except for orders requiring budget changes, which are not apparently or allegedly involved in this case. Ordinance 11,155). Notwithstanding this enactment and public pledges by top management officials to abide by the Commission's orders, on November 23, 1977 the Chief Deputy Director of Personnel wrote the Commission that he disputed the jurisdiction of ERCOM in this matter and that if an order were issued in consonance with the hearing officer's report, the department would not abide by it. He did not request or announce an intention to obtain a court ruling on the matter of jurisdiction or on any other legal issue. It is hoped that the detailing of the findings in this decision may demonstrate the prudence of complying with this order and the law.

We have commented on legal aspects of this case because they have been raised by the letters and actions of the department. Our primary concern, however, is not with legal technicalities but with principles of sound public employment relations. The Board of Supervisors declared:

> *. . . that it is the public policy of the County and the purpose of this Ordinance to promote the improvement of personnel management and relations between the County of Los Angeles and its employees and to protect the public by assuring, at all times, the orderly and uninterrupted operations and services of County government. This policy is supplemented by provisions (a) recognizing and defining the rights of employees to join organizations*

of their own choosing for the purpose of representation on matters affecting employee relations or to represent themselves individually in dealing with the County, (b) establishing formal rules and procedures to provide for the orderly and systematic presentation, consideration and resolution of employee relations matters, and (c) creating an independent Employee Relations Commission to ensure that all County employees and their representatives are fairly treated, that their rights are maintained and that their requests are fairly heard, considered and resolved. (Ordinance 9646, Section 2.)

Collective representation and negotiation are necessary to avoid strikes and irrational and costly alternatives. Negotiation between public officials and employee organizations is mandated because it promotes harmonious relations, employee efficiency, and agency effectiveness. It is an approved modality for modern government because of its own merit. In so far as it alters old or traditional patterns of behavior it does so with ample justifications. In so far as it may become necessary to override inertia or resistance, it does so with common sense in human relations reinforced by law.

ORDER

The Department of Public Social Services is hereby ordered to revoke all changes in the working conditions of Eligibility Workers introduced by it after December 1976 in its Inglewood, El Monte and South Central District offices.

The Department is further ordered to negotiate with the Joint

Council of the Los Angeles County Employees Association, Local 660, and the Social Services Union, Local 535, at the earliest possible dates, with respect to any proposed changes in working conditions of employees in the units represented by those employee organizations.

The Department is further ordered to notify the Commission of the dates set for said negotiation, and of any other action that may be taken by it with respect to this order.

Dated: January 18, 1978

David Ziskind, Chairman

Lloyd H. Bailer, Commissioner

William Levin, Commissioner

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