

LOS ANGELES COUNTY

EMPLOYEE RELATIONS COMMISSION

RECEIVED  
EMPLOYEE RELATIONS COMM.  
COUNTY OF LOS ANGELES

Nov 17 12 32 PM '80

In the matter of )  
)  
ASSOCIATION FOR LOS ANGELES )  
DEPUTY SHERIFFS (ALADS) and )  
LOS ANGELES COUNTY LIFEGUARD )  
ASSOCIATION, )  
)  
Charging Party )  
)  
v. )  
)  
COUNTY OF LOS ANGELES; )  
DEPARTMENT OF PERSONNEL, )  
)  
Respondent )  
\_\_\_\_\_ )

UFC 80.1

REPORT OF THE  
HEARING OFFICER

On August 11, 1980, Association For Los Angeles Deputy Sheriffs ("ALADS") and Los Angeles County Lifeguard Association ("Lifeguards") filed the above-numbered unfair employee relations charge against County Of Los Angeles, Department Of Personnel ("County") alleging its failure to meet and confer in violation of Section 12 (a) (3) of the Employee Relations Ordinance of the County Of Los Angeles ("ERO"). Pursuant to a Notice of Hearing, dated September 22, 1980, the matter was set for hearing before Robert D. Steinberg. On September 29, 1980, County served its answer, denying its commission of an unfair employee relations practice.

The evidentiary hearing was held on October 27, 1980. Charging Party was represented by Sheldon Allen, James Tweedy and Richard Chiurazzi, Esqs., 16661 Ventura Boulevard, Suite 224, Encino, CA 91436. Respondent was represented by Elliot Marcus and Raymond Singley, Department of Personnel. A sub-

stantial portion of the record consisted of stipulations of fact and jointly-offered documents. Both parties were afforded the opportunity to present evidence, argue, examine and cross-examine witnesses. The proceeding was transcribed. The only witness was James Tweedy, Esq., ALADS' Executive Director and Administrator. Post hearing briefs were filed on November 7, 1980. The parties requested an expedited Hearing Officer's Report.

Having fully considered the stipulated, testimonial and documentary evidence, and the parties' respective arguments and post-hearing briefs, the undersigned hereby submits the Report of the Hearing Officer.

#### SUMMARY OF FACTS

In Spring, 1979, the County was engaged in negotiating labor agreements ("MOU's") with several labor organizations representing its employees. One set of negotiations was conducted with members of the Coalition of County Federation of Labor Unions ("Coalition"). Another was with independent labor organizations, among which was ALADS, the certified bargaining representative of approximately 4,200 County employees. One of the items for negotiations was the amendment of County Civil Service Rules ("Rules"), which, by passage of the electorate (Charter Amendment B) in November, 1978, were effectively repealed. At the time, and effective February 8, 1979, interim Rules adopted by the Board of Supervisors ("Supervisors") were

in effect. Pursuant to separate understandings, negotiations on the Rules were deferred until the several MOU's had been negotiated.

Commencing May, 1979, and continuing through January, 1980, the County and Coalition met on at least 18 occasions concerning Rule modifications. No independent organization was party to these negotiations. Agreement was not reached and, after the County declared an impasse, the Coalition filed unfair employee relations charges in or around March, 1980. ALADS moved to intervene on May 14, 1980.

While the Coalition's refusal to bargain complaint was pending, the County, by letter dated April 29, 1980, advised ALADS and other independent organizations that proposed Rules would be forwarded to the Supervisors. In a meeting with these independent organizations, attended by ALADS and Lifeguards, the County explained its position regarding the Rules. Two weeks later, on or about May 21, 1980, the County advised of another possible change to the then proffered proposed Rules.

On May 23, 1980, ALADS demanded the County meet and confer on the subject of Rule changes. On June 3, 1980, the County agreed to so meet until the date of public hearings before the Supervisors (July 29, 1980). On July 18, 1980, ALADS delivered documents to the County which it characterized as its proposals on Rules changes. The County responded on July 24,

1980, refusing to negotiate, claiming the alleged proposal was untimely and unintelligible.

Meanwhile, the Coalition's charge was "off-calendared" on May 28, 1980, upon an agreement between the Coalition and County to resume bargaining on the Rules. They did so, on at least four occasions.

### ISSUES

The broad issue herein is whether the County, since on or about April 29, 1980, refused to meet and confer with ALADS and/or Lifeguards in violation of Section 12 (a) (3) of the ERO. Determinative of this broad issue are the answers to three more narrow issues, which are,

1. Was the County obligated during a period material herein to invite ALADS and Lifeguards to the bargaining table?
2. Did ALADS and/or Lifeguards waive its/their rights to bargain on the subject of Rule changes?
3. Was ALADS' submission to the County on July 18, 1980, an act of bad faith justifying the County's subsequent refusal to bargain?

### CONTENTIONS OF THE PARTIES

Charging Party alleges that since the County was the moving party in proposing Rule modifications, it was obligated to so notify the independent labor organizations, giving them the same opportunity as the Coalition to bargain on the subject. Instead, the County failed to invite them to the bargaining table along with the Coalition, and did not communicate with them concerning the Rules until April 29, 1980.

Charging Party contends it was unaware of the bargaining

taking place between the County and the Coalition, and given its first notification date of April 29, its response and "proposal" of July 18 was proper, both with respect to time and content.

Respondent contends that its negotiations with the Coalition on Rule changes, resuming Summer, 1979, was well-known and that Charging Party was obligated to move affirmatively before negotiations were suspended on or about January 31, 1980. Failing that, ALADS should have submitted proposals earlier than July 18, 1980, 11 days before public hearings on the Rules were to be held by the Supervisors. In addition, ALADS submission to the County was so poorly constructed, referencing outdated documents, that it was not subject to study, response and meaningful dialogue. It was merely a "box of paper", constituting an act of bad faith.

#### PERTINENT STATUTORY LANGUAGE

Notwithstanding the fact that Charter Amendment B required "Rules of the Civil Service System be adopted by the Board of Supervisors only after public hearing.", there is no dispute that these Rules are mandatory subjects for collective bargaining, i.e.; negotiations.

Under Section 12 (a) (3) of the ERO, it is an unfair employee relations practice for the County "(t)o refuse to negotiate with representatives of certified employee organizations on negotiable matters."

Section 3 (o) of the ERO defines the obligation material herein as follows:

"Negotiation" means performance by duly authorized management representatives and duly authorized representatives of a certified employee organization of their mutual obligation to meet at reasonable times and to confer in good faith with respect to wages, hours, and other terms and conditions of employment....

#### ANALYSIS

At no time material herein may the County be legally faulted for its failure to invite ALADS and other independent organizations to the bargaining table with respect to Rule negotiations. As the proponent of change, it did have an initial obligation to promote negotiations on this subject, but as of general negotiations in the Spring of 1979, when negotiations of Rule changes were discussed and postponed, it had met its obligation. By the successful conclusion of those negotiations, resulting in successor MOU's, all organizations, including ALADS and Lifeguards, were put on notice that it was time to move forward on negotiating Rule changes. Charging Party failed to do so until May, 1980.

The fact that independents were not aware of the Rule-change negotiations between the County and the Coalition is irrelevant. The foundational complaint of Charging Party, that independent organizations are excluded from joint bargaining with the Coalition, may have substantial merit, but the substan-

tive exclusion occurred prior to the jurisdictional period herein.\*\* When it requested Rule-change bargaining in May, 1980, ALADS did not demand it be seated with the Coalition.

However, ALADS' failure to request negotiations prior to May, 1980, does not, under the circumstances herein, constitute waiver. Estoppel is not appropriate as the County did not rely to its detriment upon ALADS' silence, and at the time ALADS took affirmative action, fruitful negotiations were still possible. In any event, the County on June 3, 1980, agreed to meet and confer, and I do not view ALADS' failure to submit proposals for another six weeks as a separate or continuing waiver.

While there is reference in the record that Lifeguards participated in the May meeting with the County, and that it was consulted with by ALADS in formulating its proposals, the sub-

10. Area--22-841,-----

\*\* With respect to future bargaining, the County should take heed of ALADS' contention that being placed in a subordinated negotiating table, and being put in a "me too" position, violates its bargaining rights. If it has not previously done so, the County might wish to make an earnest effort to urge joint bargaining by the Coalition and independent organizations. Theoretically, at least, this would make for more-productive bargaining and save public funds.

mission of July 18, 1980, was on behalf of ALADS only. There is no independent evidence that Lifeguards, at any time material herein, sought to actively participate in negotiating Rule modifications. Neither Mr. Tweedy nor his law office represented Lifeguards until the filing of this complaint.

The County has justified its refusal to negotiate with ALADS on the late timing of its proposal -- 11 days prior to public hearing, and because of the contents of its proposal. Standing alone, timeliness is not a valid defense. Granted, fruitful negotiations were not highly probable, but they were not impossible. That was a condition which affected ALADS more than it did the County, and speculation on how meaningful a negotiations might be, should not prevent a good-faith effort.

If the determinative date herein was July 24, 1980, one might sympathize with the County in its belief that negotiations were an impossibility. There is surface merit to its claim that the content of ALADS' submission of July 18 contained inaccurate references and inconsistent positions. It would not serve a useful purpose to analyze ALADS' proposal and compare it to the County's prior submission, for I do not believe the determinative date is July 24, nor do I believe the form and substance of the proposal, even coupled with its (late) submission of July 18 demonstrates ALADS was acting in bad faith.

When public hearings on the Rule changes was postponed by the Supervisors from July 29 to November 18, 1980, the County's position, justifying its refusal to negotiate, was no longer tenable. Certainly on August 11, 1980, the date this charge was filed, the County knew ALADS was pursuing its right to bargain on this important matter. As of this time (if not on July 29), knowing public hearings were in abeyance for three months, there was no justification for its continued refusal to meet and confer. Instead, the County chose to litigate this matter.

#### FINDINGS OF FACT

1. ALADS is a representative of a certified employee organization.
2. Amendments to the Civil Service Rules is a mandatory subject for negotiations.
3. ALADS request for bargaining on this subject was timely.
4. ALADS proposal of July 18, 1980 did not constitute an act of bad faith.
5. On July 24, 1980, the County foreclosed negotiations with ALADS.
6. Public hearings on Rule changes was postponed by the Board of Supervisors until November 18, 1980.
7. At all times material herein, Lifeguards failed to request bargaining on Rule changes.

### CONCLUSIONS OF LAW

1. Since on or about July 29, 1980, the County of Los Angeles; Department of Personnel has failed to meet at reasonable times and confer in good faith with the Association for Los Angeles Deputy Sheriffs (ALADS) concerning Civil Service Rules.
2. By its failure on or about July 29, 1980, and its continued failure to so meet and confer with ALADS, the County has refused to negotiate with a certified representative in violation of Section 12 (a) (3) of the Employee Relations Ordinance of the County of Los Angeles.

### RECOMMENDATION

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

1. The County shall cease and desist from refusing to negotiate with ALADS on amending the Civil Service Rules. RDS
2. The Board of Supervisors, as it deems appropriate, shall continue public hearings on Civil Service Rules until the County and ALADS have had a reasonable opportunity to negotiate; or be prepared to reopen public hearings, if warranted by the results of the negotiations between the County and ALADS.
3. The County shall cease and desist from implementing amendments to the current Civil Service Rules (effective February 8, 1979) until it has completed negotiations with ALADS.

Dated: November 14, 1980

Respectfully Submitted,

R. D. Steinberg  
Robert D. Steinberg