

Notice: This decision may be formally revised before it is published in the District of Columbia Register. Parties should promptly notify this office of any errors so that they may be corrected before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:

Fraternal Order of Police/District of Columbia
Columbia Housing Authority
Labor Committee,

Labor Organization,

and

District of Columbia Housing Authority,

Agency.

PERB Case No. 05-UM-02

Opinion No. 837

DECISION AND ORDER ON UNIT MODIFICATION

I. Statement of the Case:

On August 12, 2005, the Fraternal Order of Police/District of Columbia Housing Authority Labor Committee ("FOP" or "Petitioner"), pursuant to section 504(1) (b) of the Rules of the Public Employee Relations Board ("Board"), filed a Petition for Unit Modification ("Petition"). In addition, on August 23, 2005 FOP filed an Amended Petition for Unit Modification. FOP is seeking to add to an existing unit an employee position which they claim was created since FOP was certified as the exclusive representative.

Notices were posted and the District of Columbia Housing Authority submitted a comment. The Petition is before the Board for disposition.

II. Discussion:

On April 5, 2001, the Board certified FOP as the exclusive representative for the following unit at the District of Columbia Housing Authority:

All special police officers, police officers and senior police officers employed by the District of Columbia Housing Authority, Police Department (DCHA); excluding, management officials, supervisors, confidential employees, employees engaged in personnel work in other

than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

(See PERB Case No. 00-RC-01, Certification No. 118.)

On August 12, 2005 and August 23, 2005, FOP filed a "Petition for Unit Modification" and an "Amended Petition for Unit Modification," respectively. In their pleadings, FOP claims that subsequent to its certification, the District of Columbia Housing Authority created a new employee position titled "security guard". FOP asserts that the employee position of "security guard" is not yet part of any existing unit. As a result, FOP contends that: (1) no other labor organization represents these security guards; (2) there is no collective bargaining agreement currently in effect covering this new position; and (3) no labor organization other than FOP would be affected by the change sought by this Petition. Also, FOP notes that the existing unit contains approximately 60 incumbents, and the proposed modification would add approximately 50 more employees to the unit. In support of their Petition, FOP asserts the following:

- a. The new position shares a community of interest with the employee positions in the existing unit. Specifically, both the new position and those already in the unit perform those tasks necessary to provide for the safety and security of residents in DCHA's housing facilities;
- b. Employees who serve in the new position must complete the same or similar training program at the same facility as employees who are in the existing unit, and must demonstrate competence in the same or similar physical skills and legal knowledge;
- c. Employees who serve in the new position must qualify for a commission issued by the Metropolitan Police Department of the District of Columbia, as do employees in the existing unit;
- d. Employees who serve in the new position are under the same supervisory personnel, subject to the same or similar work rules as employees in the existing unit; and
- e. The modified unit will promote effective labor relations and efficiency in agency operations in that it will place in a single unit all of DCHA's employees who are involved in law enforcement.

Consistent with Board Rule 504.3, the Board's Executive Director prepared Notices concerning the Petition. These Notices were forwarded to the agency and were posted at the job sites. The District of Columbia Housing Authority ("DCHA") submitted comments regarding the Petition. In their submission, DCHA does not object to FOP's Petition. However, DCHA claims that the position which is the subject of this Petition is actually titled "security officer" and not "security guard." As a result, DCHA is requesting that the modification contain the correct employee position.

After reviewing the Petition and DCHA's comments, the Board's Executive Director contacted FOP and requested clarification regarding their Petition. Specifically, the Executive Director requested that FOP provide information concerning DCHA's comments regarding the proper title of the new employee position. In response to the Executive Director's inquiry, on February 9, 2006 FOP filed a response to DCHA's comments.¹ In their February 9th submission, FOP indicated that it concurs with DCHA's comment that the correct title for the new position is "security officer." Therefore, FOP requested that in light of the above, the issue before the Board is whether to grant FOP's Petition.

An appropriate unit under the Comprehensive Merit Personnel Act is a unit that: (1) possesses a "community of interest" among the employees and (2) promotes effective labor relations and efficiency of agency operations. The Board has held that under D.C. Code § 1-617.09(a), "petitioning parties need only propose an appropriate unit, not necessarily the most appropriate unit, in order to meet the Comprehensive Merit Personnel Act's requirement for appropriate unit." Health and Hospital Public Benefit Corporation and All Unions Representing Units in Compensation Units 12, 20, 21, 22, 23 and 24 and employees employed by the Health and Hospital Public Benefit Corporation, 45 DCR 6743, Slip Op. No. 559 at p. 7, PERB Case Nos. 97-UM-05 and 97-CU-02 (1998). Also see, AFSCME, D.C. Council 20, AFL-CIO, and DHS, CMHS, 38 DCR 5039, Slip Op. No. 278, PERB Case No. 90-R-01 (1991). In the present case, the new employee position titled "security officer" and those positions in the existing unit, share common working conditions, organizational structure, pay schedule and supervision. The Board has held that common overall supervision is probative of community of interest and some dissimilarity among positions need not preclude a finding of appropriateness where under the total circumstances, a general community of interest prevails. See, District Council 20, American Federation of State, County and Municipal Employees Local and District of Columbia School of Law, 36 DCR 8203, Slip Op. No. 235, PERB Case No. 89-RC-03 (1989). After reviewing the pleadings, we conclude that sufficient factors exist for the Board to find that the new employee position shares a community of interest with the positions that are currently in

¹ FOP's response did not contain any new information concerning the proposed modified unit. Instead, it concurred with DCHA's comments regarding the correct position description. As a result, it was not necessary to post new Notices.

the existing unit. Also, there is no collective bargaining agreement in effect covering the new position. In view of the above, we find that the proposed modified unit would promote effective labor relations and the efficiency of agency operations.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Fraternal Order of Police/District of Columbia Housing Authority Labor Committee's Petition for Unit Modification, is granted.
2. Certification Number 118 is modified by adding the position of "security officer." The modified certification has been assigned Certification Number 135. The modified unit is as follows:²

All special police officers, police officers, senior police officers and security officers employed by the District of Columbia Housing Authority, Police Department (DCHA); excluding, management officials, supervisors, confidential employees, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

3. Pursuant to Board Rule 559.1, this Decision and Order is final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

April 7, 2006

² The modified unit has been assigned Certification Number 135 and is attached to this Decision and Order.

**Government of the District of Columbia
Public Employee Relations Board**

In the Matter of:)
)

Fraternal Order of Police/District of)
Columbia Housing Authority)
Labor Committee,)

Labor Organization,)

and)

District of Columbia Housing Authority,)
)

Agency.)

PERB Case No. 05-UM-02

Certification No. 135

CERTIFICATION OF REPRESENTATIVE^{1/}

A representation proceeding having been conducted in the above-captioned matter by the Public Employee Relations Board (Board) in accordance with the District of Columbia Merit Personnel Act of 1978 and the Rules of the Board and it appearing that an exclusive representative has been designated;

Pursuant to the authority vested in the Board by D.C. Code §§ 1-605.02(1) and (2), 1-617.09, Board Rule 504.1 (b) and Board Rule 504.5 (e);

IT IS HEREBY CERTIFIED THAT:

The Fraternal Order of Police/District of Columbia Housing Authority Labor Committee (FOP/DCHA), has been designated by a majority of the employees of the above-named public employer in the unit described below, as their preference for its exclusive representative for the purpose of collective bargaining concerning both compensation and terms-and-conditions matters with the employer.

^{1/} By virtue of the Board's Decision and Order granting FOP/DCHA's unit modification petition issued simultaneously herewith (Slip Op. No. 837), this Certification supersedes the previous Certification of the Fraternal Order of Police/District of Columbia Housing Authority Labor Committee as the exclusive representative of the unit set forth above. (See, Fraternal Order of Police/District of Columbia Housing Authority Labor Committee and District of Columbia Housing Authority, Slip Op. No. 638, PERB Case No. 00-RC-01 and Certification No. 118).

Certification of Representative

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Unit Description:

All special police officers, police officers, senior police officers and security officers employed by the District of Columbia Housing Authority, Police Department (DCHA); excluding, management officials, supervisors, confidential employees, employees engaged in personnel work in other than a purely clerical capacity and employees engaged in administering the provisions of Title XVII of the District of Columbia Comprehensive Merit Personnel Act of 1978, D.C. Law 2-139.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Washington, D.C.

April 7, 2006

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order and the Certification of Representative in PERB Case No. 05-UM-02 was transmitted via Fax and U.S. Mail to the following parties on this the 7th day of April 2006.

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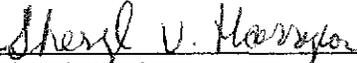
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