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/ Metropolitan Police Department Labor Committee,	,))
Complainant,	PERB Case No. 05-U-01Opinion No. 1250
v.)
)
District of Columbia Metropolitan)
Police Department,)
)
Respondent.)
•)

DECISION AND ORDER

I. Statement of the Case

On October 7, 2004, the Fraternal Order of Police/Metropolitan Police Department Labor Committee ("Complainant" or "Union") filed an Unfair Labor Practice Complaint ("Complaint") against the District of Columbia Metropolitan Police Department ("Respondent" or "Department"). The Respondent filed a response on October 14, 2004.

The matter was referred to a Hearing Examiner, a hearing was held, and on October 11, 2005, Hearing Examiner, Lois Hochhauser, Esq., issued a Report and Recommendation ("R&R"), recommending that the Board dismiss the Union's Complaint (R&R at p. 6).

The Board received no Exceptions to the Hearing Examiner's R&R. The Hearing Examiner's R&R is before the Board for disposition.

II. Discussion

The facts and issues that gave rise to this case are set out by the hearing examiner in her R&R.¹ The Complainant and the Respondent stipulated that eight months after the parties began negotiating a collective bargaining agreement in January 2004, the Complainant notified this

¹ The hearing examiner's R&R is attached as an appendix to this Opinion.

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Board that negotiations had reached an impasse. The following week, the chief of police sent all members of the collective bargaining unit an e-mail lamenting the Complainant's declaration of an impasse and outlining the Respondent's offer that the Complainant had rejected. The Complainant filed an unfair labor practice complaint alleging that the Respondent, through the chief of police's e-mail, had "improperly reached out to the Union's membership with respect to matters subject to negotiations with the Union's exclusive representative and thereby violated the law and engaged in an unfair labor practice." (Complaint at p. 3.) The hearing examiner concluded that there was insufficient evidence presented to establish a violation. More particularly, there was no evidence that members felt coerced by the e-mail or that the Union was undermined in its relations with its members.

No exceptions were filed by either party to the hearing examiner's findings, conclusions and recommendations made in her R&R. Thus, pursuant to D.C. Code § 1-605.2(3) and Board Rule 520.14, the Board has reviewed the findings, conclusions and recommendations of the hearing examiner and the entire record. The Board hereby adopts the hearing examiner's conclusion that the Respondent did not commit an unfair labor practice as a result of the chief of police's e-mail, which described the status of negotiations to employees without intimidating or coercing them, disparaging the Union, or interfering with its right to bargain. See Washington Teachers' Union Local 6 v. D.C. Pub. Sch., 48 D.C. Reg. 2931, Slip Op. No. 431 at p. 3, PERB Case No. 95-U-08 (1995); In the Matter of: AFSCME Council 20 v. District of Columbia, 36 D.C. Reg. 427, Slip Op. No. 200 at pp. 5-6, PERB Case No. 88-U-32 (1988). A review of the record reveals that the Hearing Examiner's findings and conclusions are supported by evidence, are reasonable and consistent with Board precedent. Accordingly, pursuant to Rule 520.14 we adopt the hearing examiner's findings and recommendations and dismiss the Union's Complaint.

ORDER

IT IS HEREBY ORDERED THAT:

- 1. The hearing examiner's findings and recommendations are adopted. The unfair labor practice complaint is dismissed.
- 2. 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.

March 27, 2011

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order in PERB Case No. 05-U-01 was transmitted via U.S. Mail to the following parties on this the 29th day of March 2012.

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