

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SAUK COUNTY

DeWitt, Sundby, Huggett & Schumacher, S.C., by Mr. Robert M. Hesslink, Jr., 121 South Pinckney Street, Madison, Wisconsin 53703, appearing on behalf of Sauk County.

Goldberg, Previant, Uelmen, Gratz, Miller, Levy & Brueggeman, S.C., by Ms. Marianne Goldstein Robbins, 788 North Jefferson Street, P.O. Box 92099, Milwaukee, Wisconsin 53202, appearing on behalf of Teamsters Union Local 695.

Sauk County having, on February 14, 1980, filed a petition requesting the Wisconsin Employment Relations Commission to clarify a bargaining unit previously certified by the Commission, consisting of all employees of the Sauk County Courthouse, and clerical employees of the Sauk County Highway Department, excluding supervisory, professional, confidential and craft employees, and law enforcement employees with the power of arrest, which unit is presently represented by Teamsters Union Local 695; and hearing in the matter having been conducted by members of the Commission on April 29 and May 9, 1980; and the parties having filed post-hearing briefs, the last being filed on February 2, 1981; and the Commission, having considered the evidence and arguments of Counsel, and being fully advised in the premises, makes and issues the following

3. That the County, on February 14, 1980, initiated the instant proceeding by the filing of a petition requesting the Commission to clarify the above described collective bargaining unit, by excluding certain positions therefrom, which, except for the positions employed in the Commission on Aging, were previously included in said unit; and that the positions sought to be excluded, and the basis set forth by the County for their exclusion, are as follows:

<u>Position</u>	<u>Department</u>	<u>Claimed Basis For Exclusion</u>
Administrative Secretary) Chore Service Worker) Outreach Worker)	Commission on Aging	Municipal employer separate and apart from County
Administrative Secretary to Chairman-Coordinator of County Board and to the Coordinator	County Board and Personnel Department	Confidential
Deputy County Clerk- Bookkeepers	County Clerk	Confidential
Park Attendant	White Mounds Park	Supervisory
Register in Probate	County Court	Supervisory and managerial
Soils Analyst Admin. Technical Asst.	Planning and Zoning Office	Professional
Child Support Admini- strator	Child Support Agency	Professional

4. That during the course of the hearing the Union agreed that the position of Administrative Secretary to the Chairman-Coordinator of the County Board and to the Personnel Coordinator is a confidential position and should be excluded from the bargaining unit; and that, however the Union contends that the occupants of the positions in the Commission on Aging are employed by the County, and that the remaining positions at issue should continue to be included in the unit.

5. That, under authority granted to Wisconsin counties in Section 59.07(93), Wis. Stats., the County, on June 14, 1974, by ordinance enacted by its Board of Supervisors, created the Sauk County Commission on Aging; that said ordinance contains the following provisions material to the issue as to whether the Commission on Aging is, or is not, a municipal employer separate and apart from the County:

. . .

(3) Appointing Authority

The members of the Commission shall be appointed by the Chairman of the County Board, subject to confirmation by the County Board.

(4) Membership of Commission

(a) the Commission shall consist of at least 11 members. At least 51 percent of the members shall be senior citizens 60 years of age or over. No more than four members shall be elected county officials.

. . .

(5) Duties, Powers

The powers and duties of the Commission, which shall be exercised and performed in conformity with the laws and ordinances of the County of Sauk, shall be as follows:

. . .

(e) The Commission shall make available to County Supervisors the information and research to the effects of proposed legislation.

. . .

(j) The Commission shall make an annual report of its activities to the County Board of Supervisors and shall make such other reports as the County Board from

(k) The Commission shall prepare annually a budget for necessary and reasonable expenditures to be incurred by the Commission in accomplishing its goals and mandates subject to review and approval by the County Board.

(6) Administrative Assistance

The County Board of Supervisors shall provide for the needs of the Commission including the use of available county facilities.

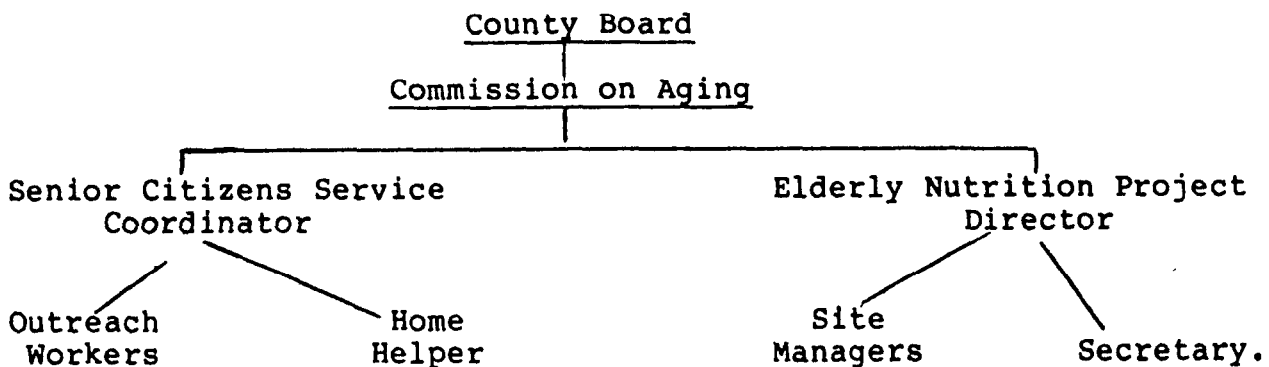
(7) Relationship

All departments and divisions of county government shall assist the Commission in fulfilling its purpose.

(8) Commission members shall receive the same per diem and mileage as standing committees of the County Board, but Commission members shall be limited to one per diem per calendar month.

. . .

6. That following its establishment and continuing at least to November 14, 1978 the Commission on Aging employed various employees and was organized as follows:



7. That, although at the time of the election resulting in the certification of the Union as the exclusive collective bargaining representative of the employees of the County in the unit involved herein only the Secretary and the Senior Citizens Service Coordinator positions were included in said unit, and at that time only the occupants of said two positions were included in the list of eligible employees participating in said election; and that the record in the instant proceeding does not establish that the Union was aware of the remaining employees then in the employ of the Commission on Aging.

8. That on November 14, 1978, following a resolution recommended by the Personnel Committee of the County Board of Supervisors, the County Board adopted said resolution, which consolidated the positions of Senior Citizens Coordinator and of Elderly Nutrition Project Director into a single position, namely that of Director of Aging Programs, and in said resolution the County Board established a salary schedule for said new position; and that as a result of the passage of said resolution the County reduced the budget of the Commission on Aging by the sum of \$4,900.

9. That the Director of Aging Programs, hereinafter referred to as the Director, was hired by a committee consisting of two lay members of the Commission on Aging, two members of the County Board, and the Personnel Coordinator in the employ of the County; that the Director has the authority, and exercises same, to hire employees employed in the Commission on Aging; that at the time of the hearing in the instant matter said employees consisted of the following:

Administrative Secretary - 1 position - Working approximately 30 hours per week

Benefits Specialist - 1 position - Full time

Volunteer Coordinator - 1 position - Full time

Food Site Managers - 5 positions - Approximately 20 hours per week

Outreach Workers - 3 positions - Approximately 20 hours per week

Chore Service - 2 positions - Approximately 30 hours per week;

and that prior to the close of the hearing herein the Union requested that the above position be accreted to the unit represented by it without an election among the occupants of said positions.

10. That the initiation of new programs and applications for funding of same, relating to the Commission on Aging, requires approval by the County Board; that the Commission on Aging occupies office space in the County Courthouse without charge; that employees occupying the positions of Food Site Managers, Outreach Workers and Chore Service, while on occasions report to the office in the Courthouse, perform their duties throughout the County; and that the employees in the Commission on Aging are paid by check drawn on the County through the office of the County Clerk, which office makes the required deductions for income tax withholdings, social security, and insurance, all on accounts in the name of the County.

11. That the Deputy County Clerk Bookkeepers, in addition to other duties, prepare the payroll of County employees; that on occasion the Personnel Coordinator requests said employees to prepare data relating to wages, fringe benefits, etc., paid to County employees included in various collective bargaining units, for utilization by agents of the County in collective bargaining with the organizations representing the employees in such units; that the information so requested is a matter of public record; and that the occupants of the position involved have neither access to, nor are they involved in, any confidential labor relations matters.

12. That at the time of the hearing herein Harland Schneider was employed as the Park Attendant at the County's White Mounds Park; that Schneider's immediate supervisor holds the position of Parks Manager, as well as that of Solid Waste Manager, in charge of the County's landfill site; that from approximately September through April Schneider works in and about the White Mounds Park with one additional employee; that during the months from May through August, seasonal employees, usually students, are assigned to work at the White Mounds Park; that during said months in 1979 thirteen CETA funded employees were so employed at said location; that during said months Schneider spent 60% of his time overseeing the work of such employees, and the remainder of his time performing the same type of work; that Schneider maintains the trails in the park and collects fees from those who use the camp sites located in the park, six in number; that Schneider has never hired or terminated any employees, nor does he have the authority to impose discipline.

13. That at the time of the hearing herein Carmen Green occupied the position of Register in Probate, as well as being designated as the Probate Registrar, and she also serves as the Clerk of the Juvenile Court, and acts as the Secretary to Circuit Judge James Karch, who exercises jurisdiction over probate, civil, and juvenile court matters; that Ms. Green occupied the same positions at the time of the election leading to the certification of the Union, and, at that time, the County and Union and stipulated that Green was to be included in the unit and eligible to vote in the election; that Green's duties have not changed since said election; that Green spends approximately one-half hour a day assigning duties to the Deputy Register in Probate, who is a part-time employee, working two and one-half days per week; that Green has not been given the authority to hire, promote, transfer, discipline or terminate the Deputy Register in Probate, nor does Green possess the authority to effectively recommend same; that the duties of the Deputy Register in Probate are, for the most part, routine in nature; and that Green does not establish budgets, nor does she possess the authority to allocate funds therefrom.

14. That the job description of the position of Soils Analyst position describes the position as performing "technical work in assisting the County Planner and Zoning Administrator in the discharge of the duties of that office. Performs related work as assigned"; that, while the current incumbent of the position has a college degree with course work in soils, such a degree, or for that matter any college degree, is not

a requisite for the position, rather the occupant of the position is required to be certified by the State, obtainable on attendance of a three day course sponsored by the State, with an annual renewal course; that the duties of the position requires traveling to construction sites to test soil samples prior to the installation of septic tank waste disposal systems; that said determinations are generally made by simple visual and physically handling of earth samples on the site, and if need be, samples may be sent to the State laboratory; that while duties performed by the Soil Analyst requires some skills, the duties required to be performed do not require the consistent exercise of judgement and discretion; and that the position has been included in the existing collective bargaining unit and covered in the collective bargaining agreement as a "projects Coordinator."

15. The description of the position of Administrative Technical Assistant, in describing the position "generally" is identical to that of the position of Soils Analyst; that the occupant of the position conducts on-site investigations to determine compliance with building and zoning codes, land use, well and sanitary permits, as well as sketching maps with respect to zoning and planning; that, although the current incumbent of the position has a college degree, not identified in the record, the position does not require the incumbent to have a degree, but rather a State certification and annual renewal, somewhat similar to that of the Soils Analyst, is only required; and that the position has been included in the instant bargaining unit, and has been covered in the collective bargaining agreement under the title assigned to the position.

16. That, although the Child Support Agency is under the general direction of the District Attorney, it is under the immediate direction of the Child Support Administrator, who at the time of the Union's certification, was classified as a Legal Secretary; that the occupant of the latter position was reclassified to the position of Child Support Administrator as a result of the duties and responsibilities of the latter position; that in said regard the occupant directs and supervises the work of two full time secretaries and one part time employee; that said Administrator schedules their work, vacations and other days off; that the Administrator participates in the hiring of employees, prepares the Agency's budget, and is authorized to purchase supplies and equipment, subject to the final authorization by the County Finance Committee; and that the Administrator has entered into contracts, on behalf of the County, to provide services for, and on behalf of, the Child Support Agency.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. That Sauk County Commission on Aging is not a municipal employer within the meaning of Section 111.70(1)(a) of the Municipal Employment Relations Act (MERA), and that therefore the employees employed in said Commission on Aging are within the meaning of Section 111.70(1)(b) of MERA, employees of Sauk County, except the Director, who is a supervisor within the meaning of Section 111.70(1)(c) of MERA.

2. That, since the incumbent in the position of Administrative Secretary to the Chairman-Coordinator of the County Board and the Personnel Coordinator is privy to confidential matters relating to collective bargaining and/or other labor relations matters, said position is not occupied by an employee within the meaning of Section 111.70(1)(b) of MERA.

3. That, since the incumbents in the position of Deputy County Clerk Bookkeeper, in the employ of Sauk County, are not privy to confidential matters relating to collective bargaining and/or other labor relations matters, the occupants of said position are employees within the meaning of Section 111.70(1)(b) of MERA.

4. That the incumbent of the position of Park Attendant at the White Mounds Park, in the employ of Sauk County, does not exercise duties or responsibilities in sufficient combination and degree so as to constitute a supervisor within the meaning of Section 111.70(1)(o) of MERA, and that, to the contrary, the incumbent of said position is an employee within the meaning of Section 111.70(1)(b) of MERA.

5. That Sauk County, and not the Sauk County Circuit Court, is, within the meaning of Section 111.70(1)(a) of MERA, the municipal employer of the occupant of the position of Register in Probate, who also is designated as the Probate Registrar as well as the Clerk of Juvenile Court, and since said occupant does not exercise duties and responsibilities in sufficient combination and degree so as to constitute a supervisor within the meaning of Section 111.70(1)(o) of MERA, and, further, since the occupant of said positions does not possess nor exercise any managerial or executive duties, the occupant of said positions is an employee within the meaning of Section 111.70(1)(b) of MERA.

6. That the duties and responsibilities of the incumbents occupying the positions of Soils Analyst and Administrative Technical Assistant, in the Planning and Zoning Office, are not professional in nature, and that therefore said incumbents in the employ of Sauk County are not professional employees within the meaning of Section 111.70(1)(l) of MERA.

7. That, since the occupant of the position of Child Support Administrator, employed in the Child Support Agency of Sauk County is a managerial employee having the authority to commit resources of the County, as well as having supervisory responsibilities and duties in sufficient combination and degree so as to constitute a supervisory employee within the meaning of Section 111.70(1)(b) of said Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT

1. That all regular full-time and regular part-time employees in the employ of Sauk County in its Commission on Aging, specifically the positions of Administrative Secretary, Benefits Specialist, Volunteer Coordinator, Food Site Managers, Outreach Workers, and Chore Service Workers, excluding the Director of Aging Programs be, and the same hereby are, accreted to the collective bargaining unit described in the Findings of Fact, which unit is presently represented for the purposes of collective bargaining by Teamsters Union Local 695.

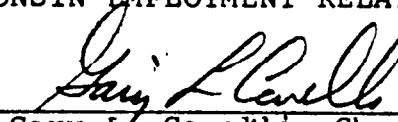
2. That the positions of Deputy County Clerk Bookkeeper, Park Attendant at White Mounds Park, Register in Probate (also identified as Probate Registrar, and Clerk of Juvenile Court), Soils Analyst, and Administrative Technical Assistant (both employed in the Planning and Zoning Office) are properly included in the collective bargaining unit described in the Findings of Fact, which unit is presently represented for the purposes of collective bargaining by Teamsters Union Local 695.

3. That the position of Administrative Secretary to the Chairman-Coordinator of the Sauk County Board, as well as to the Sauk County Personnel Coordinator, and the position of Child Support Administrator in the Child Support Agency of Sauk County be, and the same hereby are, excluded from the collective bargaining unit described in the Findings of Fact, which unit is presently represented for the purposes of collective bargaining by Teamsters Union Local 695.

Given under our hands and seal at the
City of Madison, Wisconsin this 6th
day of October, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Gary L. Covegli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER CLARIFYING BARGAINING UNIT

Sauk County initiated the instant proceeding for the purpose of clarifying an existing collective bargaining unit of its employees, which unit is represented for the purposes of collective bargaining by Teamsters Union Local 695. As indicated in the Findings of Fact, the County would exclude certain positions from said unit on the claim that (1) the Sauk County Commission on Aging is a "municipal employer" separate and distinct from Sauk County, and that therefore the employees of said Commission can not be included in a unit of County employees; (2) that certain positions originally included in the unit should be excluded therefrom on the basis that the occupants thereof are confidential, supervisor, or managerial employees; and (3) that the Register in Probate is employed by the judicial branch (Circuit Court) of the County, and therefore not an employee of the County, but an employee of said Court, a separate employer.

The Union contends that all the positions which existed at the time of its certification as the bargaining representative should continue to be included in the unit, since their duties and responsibilities have not changed since the County stipulated to their inclusion in the unit prior to the election resulting in the selection of the Union as the bargaining representative. Further, the Union contends that the Commission on Aging is not a municipal employer separate and distinct from Sauk County, that the Register in Probate is an employee of the County, and that those employees who are employed in the Commission on Aging, and not originally included in the unit, should not be accreted to said unit without a vote among said employees, since the Union was either not aware that such positions existed at the time, or that said positions were created by the County after the Union had been certified as the bargaining representative.

The Employer Status of the Commission on Aging

The facts material in determining whether said Commission is a municipal employer separate and apart from the County are set forth in the Findings of Fact. The County contends that said Commission has the right to unilaterally hire and fire employees, and to set their compensation and conditions of employment, all indicia of employer status separate and apart from the County itself, and in that regard cites decisions by the Commission issued in Village of Hales Corners 1/ and Dane County Housing Authority. 2/ The Union argues that the Commission is not a separate municipal employer.

The fact that the Commission has the authority to hire its own employees or to fire them and to set their wages and working conditions is not sufficient to establish it as a separate municipal employer. Indeed elected County officials, as well as its Personnel Coordinator, played a significant role in the hiring of the present Director of the Commission. Further, other County departments also do their own hiring, e.g. Sheriff, Social Services. Furthermore, the County in addition to other sources, contributes funding for the Commission. Its budget must be reviewed and approved by the County Board of Supervisors. In Dane County Housing Authority, our decision was predicted, for the most part, on the fact that Section 66.40(4), Wis. Stats., provides that once created, a housing authority is a "public body corporate and politic", and that also Section 66.40(3)(a), Wis. Stats. defines such an authority as a "public corporation". There exists no such statutory definition of a Commission on Aging created by any county in this State. A search of the Wisconsin Statutes reveals the following provisions with respect to Commissions on Aging created by counties:

1/ Decision No. 15229-A, 4/78.

2/ Decision No. 17130, 8/79.

59.07 General powers of the Board. The board of each county may exercise the following powers, which shall be broadly and liberally construed and limited only by express language:

. . .

(93) SENIOR CITIZEN PROGRAMS: APPROPRIATION: COMMISSION ON AGING. (a) Appropriate funds for the purpose of promoting and assisting county commissions on aging and senior citizens clubs and organizations within the county in their organization and activities. A county may cooperate with any private agency or group in such work.

(b) Create a county commission on aging. Appointments to the commission may include members and nonmembers of the board.

Based on the above and all the facts material to the issue, we are satisfied that the Commission on Aging is not a municipal employer within the meaning of Section 111.70(1)(a) of MERA and that the employees employed therein are in fact employed by Sauk County.

The Administrative Secretary employed in the Commission on Aging has been included in the bargaining unit since the election leading to the certification of the Union as the bargaining representative. The additional employee positions therein were not so included, either because they did not exist, or because, unknown to the Union, they were not included among the eligible participating in the election. The County argues that should the Commission determine that they are County employees, they should not be accreted to the unit since they lack a community of interest with other employees in the unit, and, further, they should not be accreted without a vote among said employees to determine their own desires with respect to accretion. As expected the Union contends otherwise.

The unit involved herein was originally stipulated to by the County, as well as the Union, and a rival organization ^{3/} which appeared on the ballot in the election leading to the Union's certification, as being an appropriate collective bargaining unit. The Wisconsin Employment Relations Commission accepted the unit description agreed to by the parties as being an appropriate unit within the meaning of MERA. Included therein are employees having varying degrees of skills and duties. While many employees in the unit perform their duties in the Courthouse, others perform their duties elsewhere. Some employees in the Commission on Aging perform their duties in the Courthouse, while others perform their duties elsewhere. Their community of interest to the other employees in the unit is no less the same or different than the community of interest of the various employees presently in the unit. Further, the Commission has not adopted the "community of interest test" as the sole criteria for the establishment of collective bargaining units in municipal employment. We reject the County's argument in that respect.

The County, contrary to the Union, urges us not to accrete the eligible employees in the Commission on Aging to the unit without an election among such employees to determine their desires as to such accretion. We also reject that request. In the first place a portion of the employees involved have been included in the unit and were covered in the collective bargaining agreement between the parties. Secondly, the remaining number of employees sought to be accreted are not numerous when viewed in light of the number of employees presently in the unit. Furthermore, the Union did not agree, at any time, to exclude the employees it now seeks to accrete.

The Register in Probate

The County sought to exclude the position of the Register in Probate from the unit on the claim that the occupant of the position, who also performs the duties of the Registrar in Probate as well as that of the Clerk of Juvenile Court, is a supervisory and/or managerial employee. The Union, to the contrary, contends that the occupant of the positions involved does not possess the required authority, nor perform duties which would establish the occupant as either a supervisor or a managerial employee. During the course of the hearing the County did not allege that the Register in Probate was not an employee of the County. Following the close of the hearing and the receipt of original briefs, and in a decision, in which the Wisconsin Employment Relations Commission was not party, the Hon. Richard W. Orton, in a matter entitled William E. McEwen, Circuit Court Judge, Pierce County, and Dorothy B. Nelson, Register in Probate vs. Pierce County and Pierce County Courthouse Employees, Local 556-A, AFSCME, AFL-CIO, dated November 25, 1980, determined that the Register in Probate was an officer of the Court and not a municipal employee within the meaning of MERA. Following the issuance of said decision the Commission advised the County and the Union herein of said decision and invited the parties, if they so desired, to file briefs with respect to their position as to whether the instant Register in Probate was or was not an employee of the instant County. Such briefs were filed by February 2, 1981. The County urged the Commission to adopt Judge Orton's decision, while the Union opposed same, contending that the Commission should follow its previous decision issued in Oneida County 4/, wherein the Commission determined that the Register in Probate is a municipal employee and is included in collective bargaining units.

It should be noted that the Commission was faced with a similar issue in Manitowoc County 5/, a decision issued on July 29, 1981. Therein we set forth, in part, the following rationale with respect to that issue:

. . . Section 851.71 Stats. gives judges the right to hire and remove Registers in Probate by providing: 851.71 Appointment and compensation of registers in probate. (1) In each county, the judges of the County shall appoint and may remove a register in probate. Appointments and removals may be made only with approval of the chief judge. Before entering such duties the register in probate shall take and subscribe the constitutional oath of office and file it, together with the order of appointment, in the office of the clerk of circuit court.

(2) One or more deputies may be appointed in the manner specified in sub. (1).

(3) The salary of the register in probate and of any deputies shall be fixed by the county board and paid by the county.

. . . the Commission for a number of years has consistently ruled that Registers in Probate are municipal employees who are to be included in collective bargaining units.

The legislature, then, was presumably aware of this interpretation when it amended Section 851.71 in 1977. At that time, the only change made by the legislature was to provide that henceforth the appointment and removal of Registers in Probate were to be made by the County judge. The legislature, however, gave absolutely no indication when it amended Section 851.71 that Registers in Probate should no longer be considered municipal employees under

4/ Decision No. 19134-A, 11/73.

5/ Decision No. 8152-E.

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MERA. Absent any such limiting language, it must be concluded that the legislature intended that Registers in Probate should continue to be municipal employees and that they continue to be covered under MERA, just as in the past. In this regard we note the requirement that their salaries continue to be fixed by the County Board and paid by the County.

Further, in the Manitowoc decision we held that the "legislature's extension of collective bargaining to Registers in Probate neither impairs nor abridges the ability of the courts to properly perform their judicial functions", and also the fact that Registers in Probate are deemed "officers of the court" does not mean that the occupants thereof are excluded from the term "employees" under MERA.

The Deputy County Clerk Bookkeepers

The County, contrary to the Union, contends that the two employees occupying the positions of Deputy County Clerk Bookkeepers should be excluded from the unit since they perform confidential duties. The record does not establish that said individuals are privy to matters which are confidential to the County's role in collective bargaining or in the administration of the collective bargaining agreement. The fact that said individuals provide information to be utilized by the County in the performance of such functions is not in itself sufficient to conclude that the positions are to be considered confidential. In fact, the data provided by them to the County involves information which is available to the general public. The occupants of such positions are not privy to matters which are confidential to agents of the County in fulfilling its role as a municipal employer under MERA, and therefore we have concluded that the occupants of said position are included in the unit involved herein.

Positions Claimed to be Supervisory

Contrary to the Union, the County contends that the positions of Park Attendant at the White Mounds Park, and the Child Support Administrator Supervisor are supervisory employees and therefore should be excluded from the unit.

As early as 1964, and continuing to date, 6/ the Commission has considered the following factors in determining whether employees are, or are not, supervisors within the meaning of Section 111.70(1)(o) of MERA:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees.
2. The authority to direct and assign the work force.
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees.
4. The level of pay, including an evaluation of whether the supervisor is paid for his skill or for his supervision of employees.
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employees.
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees.
7. The amount of Independent judgment and discretion exercised in the supervision of employees.

When applying such factors to the duties performed by the occupants of the positions involved, we have concluded that the Park Attendant is not a supervisor, while the Child Support Administrator is a supervisory employee. In addition we have also concluded that the Director of Aging Program is also a supervisor.


The Soils Analyst and the Administrative Technical Assistant

The County would have the Commission excluded said two positions from the unit on the basis that such positions are "professional". Section 111.70(1)(L) of MERA sets forth definite criteria for determining whether an employee is a professional employee. Neither the requirements for said positions, nor the duties performed by the occupants meet the criteria set forth in said statutory provision, and therefore we have concluded that the occupants of said two positions are not professional employees.

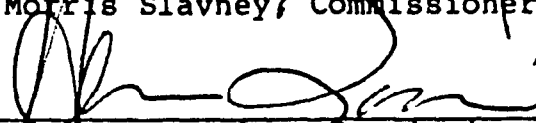
Dated at Madison, Wisconsin this 6th day of October, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Gary L. Covelli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner