

VILLAGE OF VERONA (POLICE DEPARTMENT), II, Decision No. 15442

MEMORANDUM ACCOMPANYING ORDER OF DISMISSAL

On March 1, 1977, the village filed a petition pursuant to sec. 111.77(3), Stats., alleging that an impasse existed in the negotiations between the petitioner and the union involving law enforcement personnel in the employ of the village. The matter was assigned to an investigator and, prior to any further commission action on the petition, the village filed a motion for consent to withdraw its petition because:

1. The population of the Village of Verona within the meaning of sec. 990.01(29) and sec. 111.77(8), Stats., 1/ is less than 2,500; and
2. The parties were not at an impasse in their negotiations.

ERB 30.04, Wis. Adm. Code, provides that a petition filed pursuant to sec. 111.77(3), Stats., may be withdrawn "with the consent of the commission under such conditions as the commission may impose to effectuate the policies of sec. 111.77, Stats."

On March 29, 1977, the union filed a statement in opposition to the motion wherein it argued that:

1. The population of the Village of Verona, according to an estimate made for purposes of distribution of tax funds for 1976, was 3,166;
2. The Village of Verona has annexed five parcels of land since the last official census in 1970;
3. The negotiators for the petitioner stated at the last two negotiation meetings prior to the filing of the petition herein, that they had "no movement and in fact did file a petition for mediation [sic]."

The parties were advised by letter that the commission was considering ruling on the motion without a hearing and that the parties would

1/ Relevant portions of the statutes read as follows:

"111.77 . . .

(8) This section shall not apply to cities having a population of 500,000 or more nor to cities, villages or towns having a population of less than 2,500.

. . .

999.01 Construction of laws; words and phrases. In the construction of Wisconsin laws the words and phrases which follow shall be construed as indicated unless such construction would produce a result inconsistent with the manifest intent of the legislature:

. . .

(29) Population. 'Population' means that shown by the most recent regular or special federal census."

have until April 11, 1977, to advise the commission if they desired a hearing on the matter. Neither party requested a hearing; however, the village did respond to the union's argument with regard to the annexations which have allegedly taken place. It is the village's position that annexation itself is unrelated to population, and argues that had the legislature so intended, it could have provided for population to be based on "subsequent population estimates" as was done in the case of sec. 66.013(2)(b) and sec. 66.945(1), Stats. Finally it cites 11 Op. Att'y Gen. 852 (11/15/22) in support of its arguments.

DISCUSSION

Because the commission is satisfied that it can rule on the motion on the arguments presented, it has determined not to order a hearing or informal investigation with respect to the motion of the village.

It is undisputed for purposes of the motion that the population of the Village of Verona, according to the last regular or special census, was less than 2,500. According to the 1975 edition of the Wisconsin Blue Book, at page 677, the population of the Village of Verona was listed as 2,334, based on the last official census conducted in 1970. According to that same source, it was estimated that the population of the Village of Verona had increased to 2,760 in 1974. In a document entitled "Final Population Estimates" prepared by the Bureau of Program Management of the Department of Administration of the State of Wisconsin the estimated population of the Village of Verona on January 1, 1976 was 3,166.

It is also undisputed for the purposes of ruling on the village's motion, that there have been five annexations by the Village of Verona since the last official census in 1970.

The language of sec. 990.01(29) is unambiguous in its requirement that the commission interpret the term "population" as set out therein "unless such construction would produce a result inconsistent with the manifest intent of legislature." Although the legislature has, in the case of sec. 66.013(2)(b) and sec. 66.945(1) manifested an intent that the term population have a different meaning, nothing in sec. 111.77 manifests such an intent. Furthermore, sec. 990.01(29) would seem to require adoption of the construction of the term "population" contained in sec. 111.77(8), whether the actual population has increased (or decreased) by virtue of annexation or increased density.

If the commission were free as a matter of policy to interpret the word population in a less restrictive manner, it would be inclined to so do. However, the commission is satisfied that such a construction is impermissible under sec. 990.01, Stats. Consequently, the motion of the village has been granted and the petition has been dismissed.

Dated at Madison, Wisconsin this 20th day of April, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner