

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

MILWAUKEE DISTRICT COUNCIL 48,  
AFSCME, AFL-CIO

Involving Certain Employees of

MILWAUKEE COUNTY

Case XCVI  
No. 21945 ME-1461  
Decision No. 16461-D

## ORDER CLARIFYING BARGAINING UNIT

Following an election conducted by it, the Wisconsin Employment Relations Commission on August 22, 1978, certified Milwaukee District Council 48, AFSCME, AFL-CIO, hereinafter referred to as the Union, as the exclusive collective bargaining representative of certain employees of Milwaukee County in a collective bargaining unit consisting of:

All Life Guards and Park Attendants, including those employed on an hourly, seasonal, part-time and full-time basis, employed by Milwaukee County, excluding employees in the classifications of Life Guard Supervisors and Park Attendant Supervisors, and all other employees of Milwaukee County;

that following the issuance of the Certification, the County filed an "Objection to Certification of Representative and Revised Final Result of Election" in the matter on August 28, 1978; that thereafter and on September 5, 1978, the Union filed a Motion to overrule and dismiss the County's objection; that hearing was originally set in the matter for October 5, 1978, and subsequently was postponed indefinitely; that on November 30, 1978, the Commission received a Stipulation executed by representatives of the parties wherein they specifically identified certain positions as being supervisors, and further that the County withdrew any challenge it had to the Certification previously issued by the Commission; and the Commission, therefore, being satisfied that the Certification previously issued remains in full force and effect;

NOW, THEREFORE, it is

ORDERED

That the Certification of Representative previously issued in the above-entitled matter remains in full force and effect.

Given under our hands and seal at the  
City of Madison, Wisconsin this 1st  
day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Marshall L. Gratz, Commissioner

No. 16461-D

MEMORANDUM ACCOMPANYING ORDER  
CLARIFYING BARGAINING UNIT

The election held among the employees in the bargaining unit involved was conducted by mail ballots, and during the counting the ballots of 85 individuals were challenged on the claim that said individuals are in supervisory positions. Said challenged ballots affected the results of the election. A hearing was set to take evidence with regard to said challenged ballots. However, prior thereto the Union conceded that the individuals whose ballots were challenged were, in fact, supervisory. Discounting the challenged ballots, the results of the election indicate that a majority of the eligible employees voting selected the Union as their bargaining representative. Subsequent to the issuance of the Certification the County filed its objection to the Certification and to the final tally of the ballots, contending, in effect, that the revised tally of ballots was incorrect in that only 900 employees were eligible to vote rather than the 960 eligible to vote as reflected in the revised final result of the election. The County also alleged that it had reserved the right to challenge the ballots of the employees holding the classifications of Life Guard III, Title Code 704 and Park Attendant III, Title Code 409. The County requested the Commission to amend the final results of the election to correctly reflect the result and that the Certification be amended to reflect that all persons holding positions in the classifications noted be excluded from the bargaining unit.

In response the Union filed a Motion to overrule and dismiss the County's objections and request for revised final result of the election, contending that the request was contrary to the stipulation executed by the parties leading to the election.

As noted, hearing was set in the matter but prior thereto the parties executed a stipulation resolving the issues raised in the pleadings. The Commission sees no need to revise the final result of the election inasmuch as the Certification was based on the total valid ballots counted, and there appears to be no issue with respect thereto.

Further, the Commission will not amend the Certification since the bargaining unit described in the Certification excludes supervisors from the Unit. Pursuant to the stipulation executed by the parties, the individuals occupying the following positions and the number of positions therein are deemed to be supervisors and, therefore, not included in the bargaining unit involved:

1. Life Guard III, Title Code 704 -- 31 positions;
2. Part Attendant III, Title Code 409, at the following locations and number of positions at said locations:

<u>Location</u>	<u>Number of Positions</u>
Brown Deer	5
Currie	5
Estabrook	2
Grant	3
Greenfield	10
Humboldt	6

<u>Location</u>	<u>Number of Positions</u>
Jackson	3
Wilson	2
Mitchell	7
Washington	3
Whitnall	7
Zoological Gardens	1

3. Park Attendant IV, Title Code 409.3 -- 13 positions at the Zoological Gardens.

Dated at Madison, Wisconsin this 1st day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Marshall L. Gratz  
Marshall L. Gratz, Commissioner