

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

| | | |
|--------------------------------------|---|--------------------|
| In the Matter of the Petition of | : | |
| | : | |
| WISCONSIN COUNCIL OF COUNTY AND | : | |
| MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO | : | |
| | : | |
| Involving Certain Employes of | : | Case I |
| | : | No. 24447 ME-1658 |
| DANE COUNTY HOUSING AUTHORITY | : | Decision No. 17130 |
| | : | |
| | : | |

Appearances:

Mr. Darold O. Lowe, District Representative, appearing on behalf of the Petitioner.

Mr. Cal Kornstedt, Assistant Corporation Counsel of Dane County, appearing on behalf of the Dane County Housing Authority.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO having, on April 20, 1979, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct an election, pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act, among all employes of the Dane County Housing Authority, excluding supervisory, confidential and craft employes, to determine whether said employes desire to be represented by said Union for purposes of collective bargaining, and a hearing on said petition having been held at Madison, Wisconsin on May 14, 1979, before Duane McCrary, a member of the Commission's staff; and the Commission having considered the evidence and arguments of the parties, makes and issues the following Findings of Fact, Conclusions of Law and Direction of Election.

FINDINGS OF FACT

1. That Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization having its offices at 5 Odana Court, Madison, Wisconsin 53719.

2. That Dane County Housing Authority, hereinafter referred to as the Authority, has its offices at 120 East Wilson Street, Madison, Wisconsin; that the Authority was created by the Dane County, Wisconsin Board of Supervisors to provide for the development of housing and housing services for lower income, elderly and handicapped individuals or families; that the Dane County Executive appoints five Commissioners, which appointments are subject to confirmation by the Dane County Board of Supervisors; that Commissioners have the ultimate responsibility for the governance and operation of the functions of the Authority, including the employment of employes; and that the Authority was created pursuant to Secs. 59.075 and 66.40, Wis. Stats., and constitutes a public body and a body corporate and politic, carrying out and effectuating the purposes and provisions of Secs. 66.40 to 66.404, Wis. Stats.

3. That during the course of the hearing in the instant matter the parties stipulated that the unit appropriate for collective bar-

gaining consists of all regular full-time and regular part-time employees in the employ of the Authority, excluding supervisory, confidential and craft employees; and that the individuals occupying the positions of Executive Director, Assistant Executive Director, and Accountant should be excluded from the eligibles in any election conducted herein, as well as independent contractors serving as Resident Managers.

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

CONCLUSIONS OF LAW

1. That the Dane County Housing Authority is a political subdivision of the State of Wisconsin and a municipal employer within the meaning of Section 111.70(1)(a) of the Municipal Employment Relations Act.

2. That the bargaining unit consisting of "all regular full-time and regular part-time employees of the Dane County Housing Authority excluding all supervisory, confidential and craft employees" constitutes an appropriate bargaining unit within the meaning of Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act.

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

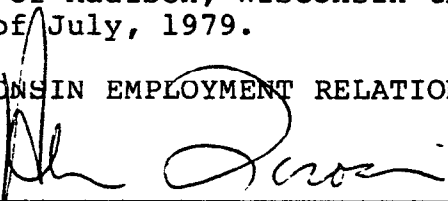
DIRECTION OF ELECTION


That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days of the date of this directive in the unit consisting of all regular full-time and regular part-time employees of the Dane County Housing Authority, excluding all supervisory, confidential and craft employees who were employed by the Dane County Housing Authority on July 12, 1979, except such employees as may prior to the election quit their employment or be discharged for cause, for the purposes of determining whether a majority of such employees casting valid ballots desire to be represented by the Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO for the purposes of collective bargaining with said Municipal Employer.

Given under our hands and seal at the City of Madison, Wisconsin this 12th day of July, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

The single issue before the Commission is whether the Authority is a municipal employer as defined in Section 111.70(1)(a) of MERA. The Authority concedes it may be a "political subdivision of the state" and as such a municipal employer. However, it points out that unlike the enumerated municipal employers found in that section it has no taxing powers nor is it governed by elected officials and it therefore may be considered a private sector non-profit agency, rather than a municipal employer. The Union asserts that the Authority is a municipal employer under the Municipal Employment Relations Act.

The Authority was created by Dane County by resolution in 1972. The Authority engages in discussions with the Dane County Executive regarding housing programs and the submission of applications for a particular program. In addition, the Authority will from time to time request the Chairperson of the Dane County Board of Supervisors to introduce a resolution authorizing the Authority to apply for certain housing programs. The United States Department of Housing and Urban Development requires the County to sanction the Authority's application prior to giving its approval. Further, Dane County was the recipient of a Community Development grant program from the United States Department of Housing and Urban Development to be used for rehabilitation of existing homes within Dane County. The County then awarded a contract to the Authority to administer the funds.

Section 66.40(4), Wisconsin Statutes, as applied to counties by authority of Section 59.075(1), Wisconsin Statutes, provides that once created, a housing authority is a "public body corporate and politic". Further, Section 66.40(3)(a) defines the authority as a "public corporation". Although both Dane County and HUD provide funding to the Authority to be used for administrative purposes, neither body regulates how these monies are spent by the Authority, particularly with regard to establishing the wages, hours and working conditions of its employes.

The Executive Director possesses final hiring authority and administers employe discipline. The Authority sets the wages, hours and conditions of employment for its employes. Dane County and HUD have no involvement in these areas. 1/

The Commission in Village of Hales Corners (15229-A) 4/78 was faced with an issue similar to the issue presented by the instant petition. The Commission determined that a library board which had the ability to hire and fire and set compensation and working conditions of its employes was an employing entity separate from the Village. Further, an examination of Chapter 43, Wisconsin Statutes, reveals that a library board, which is not a private non-profit agency, is composed of appointed officials, and does not possess taxing authority as is the case with the Authority in the instant case.

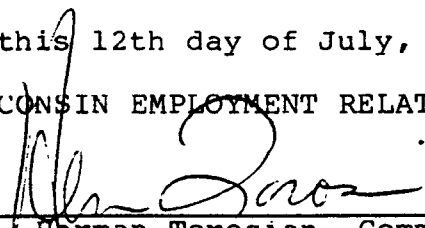
1/ It shall be noted that even if Dane County and HUD were to impose requirements on the Authority pertaining to minimum standards regarding wages, hours and working conditions, such minimum standards would merely set possible limits on what could be bargained directly with the Authority and would not affect its status as a municipal employer.

Based on all of the above, we have determine that the Dane County Housing Authority is a municipal employer within the meaning of Section 111.70(1)(a) of MERA.

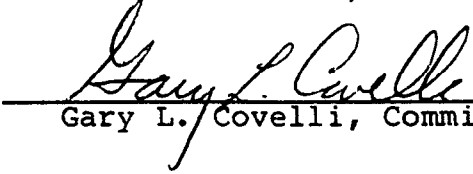
Dated at Madison, Wisconsin this 12th day of July, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Herman Torosian, Commissioner



Gary L. Covelli, Commissioner