

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
MADISON EMPLOYEES LOCAL 60,
WISCONSIN COUNCIL OF COUNTY
AND MUNICIPAL EMPLOYEES,
COUNCIL 40, AFSCME, AFL-CIO
Involving Certain Employees of
CITY OF MADISON

Case LXXXIX
No. 29422 ME-2095
Decision No. 19772

Appearances:

Mr. Darold O. Lowe, Staff Representative, Madison Employees Local 60,
Wisconsin Council 40, AFSCME, AFL-CIO, 5 Odana Court, Madison,
Wisconsin 53719, appearing on behalf of the Petitioner.
Mr. Timothy C. Jeffery, Director of Labor Relations, City of Madison, and
Mr. Ken Wright, Assistant Director of Labor Relations, City of Madison,
appearing on behalf of the City of Madison, 210 Monona Avenue, Madison,
Wisconsin 53709.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DIRECTION OF ELECTION

Madison Employees Local 60, Wisconsin Council of County and Municipal Employees, Council 40, AFSCME, AFL-CIO, having on March 8, 1982, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election, pursuant to the provisions of the Municipal Employment Relations Act, among certain employees in the employ of the City of Madison; and a hearing in the matter having been conducted on May 6, 1982 at Madison, Wisconsin, Examiner Raleigh Jones being present; and a transcript having been made; and post-hearing briefs having been received by June 29, 1982; and the Commission, having considered the record and arguments of the parties, and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That Madison Employees Local 60, Wisconsin Council of County and Municipal Employees, Council 40, 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 the City of Madison, hereinafter referred to as the City, is a municipal employer having its offices in the City-County Building, 210 Monona Avenue, Madison, Wisconsin 53709.

3. That in the instant proceeding, the Union seeks a representation election to determine whether employees of the City, in the following alleged appropriate collective bargaining unit, desire to be represented by it for the purposes of collective bargaining:

All professional employees of the Social Services Division of the Department of Human Services (or any successor division or department providing the same function), but excluding supervisors, craft employees, confidential employees and all other employees of the City of Madison.

4. That the City contends the above-described unit is inappropriate, and initially contended that the appropriate unit should consist of:

All professional employes of the City of Madison, excluding supervisors, craft employes, confidential, managerial and all other employes of the City of Madison.

5. That the classifications included in the Union's proposed unit include Social Worker I, II, and III, Purchase of Services Coordinator, the Day Care Program Specialist and Social Worker Trainees; that the parties acknowledge that the employes occupying such classifications are professional employes; and, that this proposed unit includes approximately 21 employes; that there are approximately 70 professional employes, in the following classifications, included in the City's proposed unit:

<u>Classification</u>	<u>Department Employed</u>	<u># of Employees</u>
Planner II	CETA	1
Program Management Analyst		1
Planner I	Planning and Development	1
Planner II		3
Planner III		4
Systems/Procedure Analyst IV		1
Real Estate Agent I		1
Real Estate Agent II		0
Real Estate Agent III		2
Housing Rehabilitation Coordinator		1
Relocation Counselor		1
Programmer III	Data Processing	8
Systems/Procedure Analyst IV		7
Senior Programmer		1
Property Inventory Officer	Purchasing	1
Environmental Technologist	Health	1
Social Worker Trainee	Social Services	0
Social Worker I		4
Social Worker II		10
Social Worker III		5
Day Care Program Specialist		1
Purchase of Service Coordinator		1
Planner I	Transportation	1
Planner II		1
Special Projects Coordinator		1
Traffic Engineer II		1
Civil Engineer	Engineering	2
Traffic Engineer II	Traffic Engineering	2
Landscape Architect I	Parks	2
Water Utility Maintenance Engineer	Water	1
Civil Engineer		1
Accountant III		1
Police-Community Relations Specialist	Police	1
Contract Compl. Officer	Special Services	1

6. That professional nurses in the City's Department of Public Health have had their own bargaining unit since 1976 and are currently represented by a labor organization; and, that in a separate pending proceeding, the Union has petitioned for a bargaining unit of professional librarians at the City's Public Library, which unit is acceptable to the City, although a hearing on said petition was necessary to resolve issues concerning voter eligibility.

7. That although the Social Service professionals share a common work site and similar working conditions with other professionals employed by the City, they are professional employees who support and supplement the activities of the professional social workers in support of the department's program; they do not share common supervision, duties, or required educational training in a specific field with other professionals employed by the City; that there is not an established program of employee interchange between the Social Service professionals and other professionals employed by the City; that as a result, the Social Service professionals share a community of interest distinct from that of other professional employees of the City; and further, that the establishment of such a bargaining unit will not cause undue fragmentation of bargaining units of employees employed by the City.

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

CONCLUSIONS OF LAW

1. That employees occupying the classifications of Social Worker Trainee, Social Worker I, II, and III, Day Care Program Specialist and Purchase of Service Coordinator in the Social Services Division of the Department of Human Services of the City of Madison are professional employees within the meaning of Section 111.70(1)(1) of the Municipal Employment Relations Act.

2. That a question of representation, within the meaning of Sec. 111.70(4)(d) of the Municipal Employment Relations Act, has arisen among all regular professional employees of the Social Services Division of the Department of Human Services in the employ of the City of Madison, excluding supervisory, managerial, executive, craft and confidential employees, and, all other employees of the City of Madison.

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

DIRECTION OF ELECTION

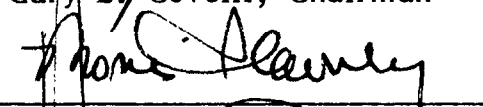
IT IS HEREBY directed that an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within forty-five (45) days from the date of this directive in the voting group consisting of all regular full-time and regular part-time professional employees of the Social Services Division of the Department of Human Services (or any successor division or department providing the same function) of the City of Madison, but excluding supervisory, managerial, executive, craft and confidential employees, and, all other employees of the City of Madison, who were employed by the City of Madison on July 23, 1982 except said employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of said employees voting desire to be represented by Madison Employees Local 60, Wisconsin Council of County and Municipal Employees, Council 40, AFSCME, AFL-CIO for the purpose of collective bargaining with the City of Madison, on wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 23rd day of July, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Gary L. Covelli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner

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

The Commission is mindful that Section 111.70(4)(d)2.a. of MERA provides that fragmentation of bargaining units should be avoided "by maintaining as few units as practicable in keeping with the size of the total municipal work force". That provision, however, also states that "the Commission may decide whether, in a particular case, the employees in the same or several departments, divisions, institutions, crafts, professions, or other occupational groupings constitute a unit". Taken together, these two requirements in effect dictate that a balance must be struck between an unreasonable number of bargaining units on the one hand, and the need for ensuring that the unique interests and aspirations of a given group of employees will not be subordinated to the interests of another bargaining group. It is for that reason that the Commission looks to the facts of a given case to determine the appropriateness of a particular bargaining unit.

Whereas the statute directs that the Commission "whenever possible" avoid fragmentation of units, it does not specify that there be only one potentially appropriate unit in a given situation. Accordingly, the Commission is not precluded from finding that the Union's proposed bargaining unit, which is of more limited composition than the overall professional unit proposed by the City, is consistent with the statute. In the instant matter the Commission is confronted with a determination of whether a petitioned for unit of professional employees in the Social Services Division of the Department of Human Services is appropriate.

Said unit would consist of all the professional Social Services employees in the City of Madison. The Commission is satisfied that such a unit is not repugnant to the Act. Similar units previously have been found to be appropriate. 1/ Furthermore, the Commission finds that the creation of a unit comprised of Social Services employees does not constitute undue fragmentation of bargaining units.

The professional Social Services employees constitute a readily identifiable homogeneous group which has a substantial community of interest created by their single profession, which is separate and distinct from the interest of other City employees engaged in various professions. Although the professional Social Services employees share a common work site and some working conditions with other professional employees of the City, they do not share common supervision, duties, or required educational training in a specific field. In addition, there is not an established program of employee interchange between the Social Services professional employees and other City professional employees. A larger unit of all professionals could subjugate the unique interests of the Social Services employees whom the Union seeks herein to represent.

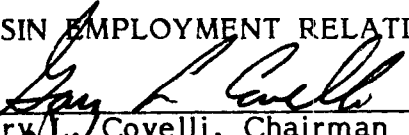
Professional employees in the City's Department of Public Health have had their own bargaining unit since 1976 and are currently represented by United Professionals for Quality Health Care. In a separate proceeding, the Union has petitioned for a bargaining unit of professional employees at the City's Public Library, which unit is acceptable to the City, although a hearing on said petition was necessary to resolve issues concerning voter eligibility.

In light of the foregoing factors, the Commission concludes that the City's professional Social Services employees do constitute an appropriate bargaining unit under Section 111.70(4)(d)2.a. of MERA, and we have directed that a representation election be conducted therein.

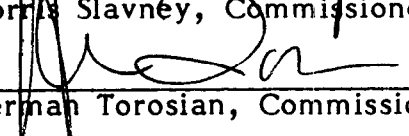
Dated at Madison, Wisconsin this 23rd day of July, 1982.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Gary L. Covelli, Chairman


Morris Slavney, Commissioner


Herman Torosian, Commissioner

1/ Brown County, (12381) 1/74; Lincoln County (Social Services Department), (16845) 2/79.