



STATE OF WISCONSIN
Employment Relations Commission
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James R. Scott
Chairman
Rodney G. Pasch
Commissioner
James J. Daley
Commissioner

February 28, 2017

The Honorable Dan Devine
Mayor of the City of West Allis
7525 W. Greenfield Avenue, Room 123
West Allis, WI 53214

RECEIVED

MAR 6 2017

CITY OF WEST ALLIS
CITY CLERK

RECEIVED

MAR 02 2017

WEST ALLIS
CITY ATTORNEY

Re: City of West Allis (Schurman/Orr Prohibited Practice Complaint)
Case ID: 313.0003 / Case Type: COMP_MP

Dear Mayor Devine:

Enclosed is a copy of a complaint filed on February 27, 2017, by AFSCME Council 32, Local 80, AFL-CIO, Richard Schurman and Thomas Orr alleging that the City of West Allis has committed prohibited practices within the meaning of the Municipal Employment Relations Act.

The complaint will be assigned to an Examiner, who will contact the parties in the near future to discuss matters such as scheduling a hearing and whether the parties wish to engage in settlement discussions. A hearing is generally scheduled on a date that is mutually convenient for the Examiner and the parties. However, if any party wishes to invoke the provisions of § 111.07(2)(a), Stats., which provides that "[t]he commission shall fix a time for the hearing ... not less than 10 nor more than 40 days after the filing of such complaint ...," it may do so by sending a written request to me.

Before a hearing on the complaint is conducted, each party complained of will be required to file a written answer. The answer can be filed at any time, but it must be filed no later than a due date that will be specified in the formal notice of hearing when and if issued. If a complaint is alleged to be so indefinite as to hinder a party in the preparation of its answer to the complaint, the party may, by motion, request the Commission or Examiner to order the complainant to file a statement supplying specified information to make the complaint more definite and certain. A party intending to file a motion to make the complaint more definite and certain is encouraged to do so promptly.

If either party requests that a hearing be scheduled while the parties are engaged in settlement discussions, the Commission will notify the parties of that request and any motion by a party to make the complaint more definite and certain must be filed within 10 days of the date of that notice.

No one from the Commission's staff will be serving any party or person as a lawyer in a lawyer-client relationship in this proceeding. Commission staff provide dispute resolution

information and assistance to all parties to a dispute on a fair and impartial basis. Unlike a lawyer representing a client, Commission staff do not exclusively represent the interests of any one party or person.

If you have any questions, please contact the undersigned at (608) 243-2421.

Very truly yours,



Peter G. Davis
Chief Legal Counsel

Direct: (608) 243-2421

Email: PeterG.Davis@wisconsin.gov

PGD/dmc

Enclosure

cc: Mr. Mark A. Sweet (w/o enc.)

~~Mr. Scott Post, City Attorney, City of West Allis (w/ enc.)~~

FEB 27 2017

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

AFSCME COUNCIL 32, LOCAL 80, AFL-CIO,
RICHARD SCHURMAN, and THOMAS ORR

Complainants,

v.

CITY OF WEST ALLIS

Respondent.

CITY OF WEST ALLIS 313.0003
(Schurman and Orr) COMP_MP
02/27/2017

COMPLAINT OF PROHIBITED PRACTICES

The above-named Complainants assert that the Respondent has engaged in and is engaging in prohibited practices contrary to the provisions of Chapter 111 of the Wisconsin Statutes, and in that respect alleges as follows:

1. Complainant AFSCME Council 32, Local 80, AFL-CIO, (hereinafter the "Union" or "Local 80"), is a labor organization within the meaning of § 111.70(1)(h), Wis. Stats., whose President is Nick Sekula, whose mailing address for the purpose of this proceeding is 3427 West St. Paul Avenue, Milwaukee, Wisconsin 53208, and whose telephone number for the purpose of this proceeding is (414) 344-6868.
2. Complainant Thomas Orr, is a member of Local 80 whose mailing address is 3740 South Sunny View Drive, New Berlin, Wisconsin 53151, and whose telephone number is (414) 702-5705. Thomas Orr is an employee of Respondent (hereinafter "Orr").
3. Complainant Richard Schurman is a member of Local 80 whose mailing address is 1021 South 110th Street, West Allis, Wisconsin 53214, and whose telephone number is (414) 587-7234. Richard Schurman is an employee of Respondent (hereinafter "Schurman").

4. Respondent, City of West Allis, is a subdivision of the State of Wisconsin and a body corporate organized and existing under Chapter 59, Wis. Stats. (hereinafter "Respondent" or "West Allis").

5. Respondent engages the services of employees represented by Local 80.

6. Respondent is a "municipal employer" within the meaning of § 111.70(j), Wis. Stats., whose Mayor is Dan Devine, whose mailing address is West Allis City Hall, Room 123, 7525 West Greenfield Avenue, West Allis, Wisconsin 53214, and whose telephone number is (414) 302-8290.

FACTS

7. During the past year, West Allis coerced and restrained employees in the exercise of their rights guaranteed in §111.70(2) of the Municipal Employment Relations Act by informing employees that "the Union does not exist."

8. On or about September 28, 2016, West Allis coerced employees in the exercise of their rights guaranteed in §111.70(2) of the Municipal Employment Relations Act by informing Union representative Debra Huntley that she could not participate in the defense of employees at their disciplinary hearing.

9. On July 6, 2016, West Allis issued a Notification of Disciplinary Action for a 25-day suspension of Schurman.

10. On July 6, 2016, West Allis issued a Notification of Disciplinary Action for a 20-day suspension of Orr.

11. On October 3, 2016, West Allis imposed a suspension of 15 days to Schurman for the conduct cited in the Notification of Disciplinary Action referenced in Paragraph 9, above.

12. On October 3, 2016, West Allis imposed a 10-day suspension to Orr for the conduct cited in the Notification of Disciplinary Action referenced in Paragraph 10, above.

13. After October 3, 2016, West Allis refused to permit Orr and Schurman to serve their suspensions in less than one week intervals.

14. By the acts described in paragraphs 7 through 13, above, Respondent has been interfering with, restraining and coercing employees in the exercise of their rights guaranteed in §111.70(2) of the Municipal Employment Relations Act, in violation of §111.70(3)(a)(1), Wis. Stats.

15. By the acts described in paragraphs 9 through 13, above, West Allis discouraged membership in a labor organization by discrimination in violation of Section 111.70(3)(a)3, Wis. Stats.


WHEREFORE, Complainants respectfully requests that the Commission order the following relief to remedy the illegal conduct of Respondent:

- A. Adjudicate the foregoing conduct of West Allis as unlawful;
- B. Issue a make whole remedy for the Orr and Schurman, who were affected by the illegal conduct of West Allis;
- C. Order West Allis to cease and desist from any like or related violations of the Wisconsin Municipal Employment Act, Wis. Stats. § 111.70, Wis. Stats.;
- D. Order West Allis to post a notice of the findings, conclusions, and order of the Commission in this matter in appropriate locations and to notify the bargaining unit members of their rights under § 111.70(2), Wis. Stats.;
- E. Order West Allis to reimburse Complainants for all expenses that have been incurred, including reasonable attorney fees, costs and expenses, in order to enforce conduct in compliance with the law; and,

F. Order West Allis to take such other remedial action as the Commission believes is reasonable and necessary to ensure compliance with the Municipal Employment Relations Act, Wis. Stats. § 111.70, Wis. Stats.

Dated at Milwaukee, Wisconsin, this 24 day of February, 2017.

SWEET AND ASSOCIATES, LLC
Attorneys for Complainants

By: 
Mark A. Sweet
State Bar No. 1024320

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