

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

International Union of Operating)	
Engineers Local 150,)	
)	
Charging Party-Respondent)	
)	
)	Case Nos. S-CA-13-197
and)	S-CA-13-047
)	
City of Park Ridge,)	
)	
Respondent-Charging Party.)	

CERTIFICATE OF SERVICE

I, Kenneth E. Edwards, hereby certify that I caused a copy of the foregoing Response to Park Ridge's Motion to Revoke Subpoenas to be served upon:

James J. Powers
Clark Baird Smith LLP
6133 North River Road
Suite 1120
Rosemont, Illinois 60018

Illinois Labor Relations Board
160 North LaSalle Street, Suite S-400
Chicago, Illinois 60601-3103

by sending a true and correct copy of same via first class U.S. mail, postage prepaid before the hour of 5:00 p.m. on 11th day of April.



Kenneth E. Edwards, Field Attorney/Organizer
International Union of Operating
Engineers, Local 150

Kenneth E. Edwards, Field Attorney/Organizer
International Union of Operating Engineers, Local 150
6200 Joliet Road
Countryside, IL 60525
(708) 482-8800
Facsimile (708)
Dated: April 11, 2014

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

International Union of Operating)	
Engineers Local 150,)	
)	
Charging Party-Respondent)	
)	
)	Case Nos. S-CA-13-197
and)	S-CA-13-047
)	
City of Park Ridge,)	
)	
Respondent-Charging Party.)	

**IUOE, LOCAL 150'S RESPONSE TO PARK RIDGE'S MOTION TO
REVOKE SUBPOENAS**

The International Union of Operating Engineers, Local 150 ("Union"), hereby files its Response to Park Ridge's Motion to Revoke Subpoenas.

PROCEDURAL BACKGROUND

On May 28 and June 7, 2013, the Union and the City of Park Ridge ("City") filed unfair labor practice charges against one another, alleging violations of the Illinois Public Labor Relations Act ("IPLRA"). 5 ILCS 315/1 *et seq.* Subsequently, the Executive Director of the Illinois Labor Relations Board ("Board") issued competing Complaints for Hearing, one against the City and the other against the Union.

The complaint in Case No. S-CA-13-197 alleges the City violated Sections 10(a)(1)(4) and (7) and of the IPLRA by refusing to draft and sign a collective bargaining agreement that reflects the terms the parties agreed to on or about January 21, 2013, by unilaterally implementing health

insurance changes to premiums and caps that were not in accordance with the language negotiated by the parties and by failing and/or refusing to implement negotiated wage increases.

In preparation for the hearing, the Union issued subpoenas for the entire City Council. Since that time, the Union has released 5 of the 8 initially requested. (See attached letter dated April 9, 2014 from Edwards to Powers) Thus, the Union will focus its response herein on why it is imperative to have the remaining two Aldermen and Mayor appear at the hearing.

ARGUMENT

The Union respectfully requests that Board denies the City's Motion to Revoke the Union's subpoenas *ad testificandum*.

The Administrative Law Judge ("ALJ") has authority to issue subpoenas pursuant to Section 1200.90 of the Board's Rules and Regulations. The ("ALJ") clearly has the authority to revoke subpoenas once issued as follows:

Motions to Revoke Subpoenas

*A person objecting to the subpoena may file a motion to revoke the subpoena. The motion must be filed at least 3 days prior to the hearing and shall be filed with the Administrative Law Judge assigned to the case. Grounds for revocation shall include **irrelevance, undue burden and privilege.** (emphasis added)*

The City alleges the subpoenas in this matter should be revoked for two reasons: (1) the subpoenaed witnesses have no firsthand knowledge of any of the key factual events described in Complaint No. S-CA-13-197; and (2) their testimony would be unnecessarily cumulative and duplicative even assuming they did have such first-hand knowledge.ⁱ

I. THE TESTIMONY OF THE MAYOR AND TWO ALDERMEN ARE RELEVANT TO THE UNION'S CASE.

While the Union certainly can agree with the fact that the Mayor and Alderman did not attend negotiations, that doesn't mean they were not intimately involved in the negotiations. One of the main thrusts of the Union's charge in this matter is the issue of whether the City negotiated in good faith. As such, the City Council's directives made to the negotiation committee are by necessity brought into play here. While the City alleges in its motion that all the City Council meetings are broadcast and as such there is no need for direct testimony, and that all of the City Council debates occurred in *open session*, such assertions are simply inaccurate.

The Mayor's own "Mayoral Veto of Local 150 Contract" document states quite clearly:

"... When the City Council went into closed session a few months ago to instruct staff on how to proceed with negotiations for Local 150 contract, we gave our negotiators explicit instructions to come back with a contract that was expense neutral." (See Exhibit 1 attached hereto, emphasis added). The City's own minutes indicate that closed sessions have been utilized by the Council on several occasions. (See Exhibit 2 attached hereto)

By the Mayor's own admission, there was in fact at least one closed session meeting to discuss the negotiations with the Union prior to the staff negotiating the agreement with the Union. As such, these discussions are not hearsay if the participants were present and testify at hearing. The lead up to the final agreement is certainly pertinent to the issue of whether the City bargained in good faith and had the authority to come to the agreement. The City's obfuscation in trying to have the ALJ believe that there were no closed sessions or that the Mayor and Council would not have first-hand knowledge of the issues in the case is simply that.

Likewise, during the very first City ratification of the agreement on April 1, 2013, Alderman Knight can be clearly heard on the City's website broadcast of the meeting stating that he was voting against the contract because of what had transpired in "closed session." The link to that meeting can be found at <http://www.parkridge.us/events/meetings.aspx>. (April 1, 2013 at 13:53 minutes) The Union has every right to explore what Alderman Knight meant by his statements. They are certainly relevant to whether the City again negotiated in bad faith, had the authority to come to agreement, and further, what version of the agreement was ultimately approved by the City and the Council.

Additionally, the Union needs testimony from the City Council and Mayor on what transpired not only prior to the first ratification vote, but also between the first City Council approval on April 1, 2013 and the Mayoral veto on April 15, 2013 and thereafter.

By necessity, the Mayor's and City Council testimony in this case is not only relevant, but crucial to the case. While the City attempts to frame the issue solely as a meeting of the minds issue, that is a severe understatement of all the intricacies of the dynamics between the parties and the issues that surround this case. There's much more to this case than a garden variety misunderstanding at the bargaining table.

II. THE TESTIMONY OF THE MAYOR AND TWO ALDERMEN ARE RELEVANT TO THE ISSUE OF WHICH VERSION OF THE CONTRACT WAS RATIFIED BY THE CITY.

The City admits in its Answer to Complaint for Hearing that ...”On April 1, 2013, the Respondent’s City Council voted and ratified the Agreement referenced in Paragraph 11.” However, one of the central issues in this case is which version of the Agreement was ratified and by whom. The City admits that it ratified the draft it submitted to the Union on or about February 15th, 2013. However, there were actually two drafts submitted by the City to the Union on February 15th, 2013. One is a redlined version of the agreement and the other a clean copy. They are stamped with files numbers 00168864 v. 1 00167645 v. 1 respectively. (See Exhibit’s 2 and 3, attached hereto) However, the version ratified by the City on April 1, 2013, which the City purports is the same version it sent to the Union on February 15th, 2013 is stamped with file number 0067647 v. 1 and is clearly different in several key areas, particularly the insurance numbers. (See Exhibit 4, attached hereto)

As such, and given the fact that Alderman Knight voted against the contract, the Mayor vetoed the contract and Alderman Mazzuca voted for the contract, the testimony of these three City officials is certainly relevant to the Union’s case, and will more than likely be relevant to the Union’s defense of the City’s charge against it as well. It should be noted here that the City filed charges against the Union which necessitates the Union’s calling of certain City officials in its defense.

III. MAYOR SCHMIDT’S SUBPOENAS SHOULD NOT BE REVOKED AND ALDERMAN MALONEY’S SUBPOENA HAS BEEN DISMISSED

The City contends that the subpoenas for Mayor Schmidt and Alderman Maloney must be revoked based on undue hardship. The Union has already dismissed the subpoena for Alderman Maloney, so that point is moot. However, the testimony of Mayor Schmidt is so crucial to the Union’s case that the Union is willing to move the matter to a different hearing date so that he can testify at the ILRB’s offices in Chicago. The Union can admit that canceling a planned business trip is an undue hardship, however it

cannot proceed with its case without Mayor Schmidt's testimony. The Union would ask the hearing date be moved to accommodate Mayor Schmidt.

WHEREFORE, the Union respectfully moves the ALJ to uphold the subpoenas for Mayor Schmidt, Alderman Knight and Alderman Mazzuca.

Respectfully submitted,

International Union of Operating Engineers, Local 150

BY: _____

Kenneth E. Edwards
Field Attorney/Organizer

Kenneth E. Edwards
Field Attorney/Organizer
International Union of Operating Engineers, Local 150
6200 Joliet Road
Countryside, Illinois 60525
(708) 482-8800

April 11, 2014

¹ Given the fact that the Union has released five of the seven city council members from their subpoenas, the City's argument that the testimony would be cumulative should be ignored at this point. The Union will not address that argument here but reserves the right to make such argument in the future.