

**STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION**

In the Matter of:

CITY OF DETROIT, DEPARTMENT OF PUBLIC WORKS,
Public Employer,

Case Nos. R99 H-100 & UC99 H-30

-and-

ASSOCIATION OF DETROIT SUPERVISORS,
Petitioner-Labor Organization.

APPEARANCES:

Valerie A. Colbert-Osamuede, Esq., Assistant Corporation Counsel, for the Public Employer

L. Rodger Webb, P.C., by L. Rodger Webb, Esq., for Petitioner

DECISION AND ORDER DISMISSING PETITIONS

Pursuant to the provisions of Sections 12 and 13 of the Public Employment Relations Act (hereafter **APERA**), 1965 PA 379, as amended, MCL 423.212 and 423.213; MSA 17.455(12) and (13), and notices of hearing dated August 9, 1999, in Case No. R99 H-100, and September 22, 1999, in Case No. UC99 H-30, these information-type representation cases were consolidated and heard at Detroit, Michigan on September 27 and October 21, 1999, before James P. Kurtz, Administrative Law Judge, acting as Hearing Officer for the Michigan Employment Relations Commission. The record, including the transcript of the hearing and briefs, was closed on September 1, 1999. Since both petitions involve similar classifications, the same department of the Public Employer, and a common analysis, this Commission has joined these cases for purposes of decision and, in the exercise of its administrative expertise, finds as follows:

Petitions and Issue:

These petitions were both filed on October 30, 1998, by the Association of City of Detroit Supervisors (hereafter **ACODS**). The Union is an independent labor organization which represents a bargaining unit of approximately 85 supervisory employees of the City. Most of the ACODS unit is comprised of foremen in the City's department of public works (hereafter **ADPW**), though there are a few supervisory employees in its unit that work at the City airport or in the parks and recreation department. In the representation case, Case No. R99 H-100, the Union is seeking to accrete to this unit approximately eight unrepresented employees classified as **Instructor** **Public Works Equipment**. Since these DPW instructors are similar to a broader City-wide classification known as **Training Specialists**, the Union's petition for election referred to the equivalent or similar classifications of junior and associate training specialists.

The unit clarification petition, Case No. UC99 H-30, seeks to add to the ACODS unit a training specialist position in the DPW, referred to as associate training specialist. This petition was amended by the Union on September 15, 1999, by adding the junior and senior training specialist classifications. The position at issue in the DPW is classified as junior training specialist, the lowest level in this classification series. The Employer takes the position that all of the instructors or training specialists are part of a City-wide, unrepresented, professional, nonsupervisory classification which cannot be added to the Union's supervisory unit. Since the issue of supervisory status is determinative in both of these cases, other possible issues, such as the timing of the filing of the unit clarification petition, the scope of the unit in the representation case, and community of interest concerns, need not be addressed.

Factual Findings:

For many years, the City had a training officer classification which oversaw employee training and the outside consultants hired by the City. In 1978, the classification was expanded and renamed a training specialist, when additional duties and responsibilities were given to the position. The present hierarchy of junior, associate, senior, and principal training specialists was established in 1993. The training specialists are all under the jurisdiction of the training division of the Employer's human resources department, and their immediate supervisor is the principal training specialist in human resources. The classification requires a college degree in a field related to instructional technology, and some experience depending upon the level assigned. The training specialists and the DPW instructors discussed below routinely attend the City's supervisory academy, which any interested employee may attend.

The duties of the training specialist are to develop, design, implement, run, and evaluate training programs for City employees, and to oversee training consultants hired by the City. They also perform assessments to determine if training programs are necessary, prepare training manuals, and deal with safety and motivational programs. Some of the training specialists are assigned to the larger City departments, such as DPW and Water and Sewerage, on an indefinite basis. When assigned to a department, they are subject to its supervision, and they become somewhat specialized in fulfilling that department's needs. They also may transfer between departments, but this is not done on a regular basis. At the time of this hearing, there were 15 training specialists in the City, with one assigned to the DPW.

For some years, between approximately 1992 and 1996, a training specialist was assigned to the DPW. When this specialist was moved to another department, the position was not immediately filled. Some of the duties and responsibilities of the training specialist position in the DPW were assigned to a refuse collection packer operator (hereafter ARCPO) foreman, who was in the ACODS unit. This foreman had applied for the specialist position when the former specialist was transferred, but was not reclassified since he did not have a college degree. He was, however, in the process of obtaining the required degree, and he had experience training employees in the DPW. After passing the necessary civil service examination, he was reclassified in November of 1998 as a junior training

specialist, and he received his degree some months later. His office is at the Northwest or Davison Yard of the DPW, where most of the training takes place, and where the instructors and trainees report to work. He reports to the assistant superintendent of the DPW with respect to his duties in that department. The notice to the Union that he was no longer in the ACODS bargaining unit led to the filing of these proceedings.

The duties performed by the new training specialist are not substantially different from those which had been doing prior to his promotion. His main responsibility is to train employees to use and operate the more than 20 types of DPW equipment. He also prepares a weekly training schedule and assigns work to the public works equipment instructors that are the subject of the representation petition. These latter positions began to be added to the DPW after the transfer of the former training specialist. Their class title, *Instructor-Public Works Equipment*, is specific to the DPW, but they are, at least nominally, under the training division of the human resources department. Like the training specialist, they report to the DPW assistant superintendent. They are chosen from the ranks of DPW employees for their skills in operating various types of DPW equipment, and they often must be trained on new or unfamiliar equipment. They must have a high school education and possess the necessary licenses and certifications. There were six instructors at the time of the hearing. Like the training specialists, they are paid on a salary basis, rather than hourly, and their salary is approximately the same as what foremen in the ACODS bargaining unit are paid.

The training engaged in by the training specialist and the instructors usually lasts from two to six days. Normally, two trainees are assigned to an instructor, but in classroom situations there may be as many as 10 to 15 trainees. There is usually one day of classroom instruction on matters such as compliance with state laws and regulations, safety issues, and maintenance of the equipment. The remaining training is a hands-on affair, conducted in the yard, or in the field on a route or other work site. When the training is completed to the satisfaction of the instructor, a certificate is issued and the trainee's foreman is notified. The trainee's foreman is also notified if a trainee is available for a work assignment. During the training process, the specialist and the instructors have all of the responsibilities and authority that instructional employees normally possess: they instruct and assign work to the trainees, evaluate their progress and performance, return them to the work pool if they do not master the necessary skills, and are in charge of them when they are working as a crew in the field. They may warn trainees of any problems and refer serious matters to the assistant superintendent.

Discussion and Conclusions:

The City's main argument is that the training specialists and DPW instructors are not supervisory employees, but rather are nonsupervisory instructors or trainers of other employees. We agree. It is well-established that employees who have training or instructional duties with regard to other employees, such as monitoring and reviewing their work, are not supervisory employees absent real authority or power in a labor relations sense to effectively impact their employment status. *Livonia P S*, 1988 MERC Lab Op 1068, 1084-1085; *Kleen-O-Rama*, 1971 MERC Lab Op 88, 89-91. See also *Covert P S*, 1997 MERC Lab Op 594, 600. This is true even where the word *Asupervisor*

is used in the title of the classification. The employees at issue here may be considered, at best, to exercise temporary and isolated supervisory authority over the trainees entrusted to them for short periods of time. Such temporary authority does not merit a finding of supervisory status in a labor relations sense on the part of the person exercising it. *Huron County Med Care Fac*, 1998 MERC Lab Op 137, 148 (MDS coordinator); *Lapeer County*, 1997 MERC Lab Op 149,155.

With regard to the training specialist who is the subject of the unit clarification petition, his main function relative to the instructors is to prepare their training schedule for the week and make their work assignments. Such routine direction of employees by a higher rated, more experienced, more knowledgeable employee does not warrant a finding of supervisory status. *Detroit Parks & Rec, Public Service Div*, 1969 MERC Lab Op 661, 666-668 (assistant greens keepers). We conclude in this case that the training specialist has limited discretion and no independent authority to discipline or otherwise materially affect the instructors=employment status. Therefore, he is similar to a crew leader, and we find that effective supervisory authority rests with the assistant superintendent and other DPW or human relations supervisors. *Village of Paw Paw*, 2000 MERC Lab Op ___ (Case No. R00 F-63, issued December 5, 2000); *Michigan Comm Services, Inc*, 1994 MERC Lab Op 1055, 1060-1061; *Oakland County*, 1986 MERC Lab Op 455, 458-459 (senior committee reporter).

Having found that none of the employees sought by the Union are supervisory employees, they cannot by accretion election or unit clarification be added to its supervisory bargaining unit. *City of Grand Rapids*, 1999 MERC Lab Op 74, 77. Accordingly, we issue the following order dismissing the petitions filed herein:

ORDER DISMISSING PETITIONS

For the reasons set forth above, the Union's petition to accrete public works equipment instructors in the DPW of the City of Detroit to its supervisory bargaining unit in Case No. R99 H-100, and its petition to clarify the same unit by adding the position of training specialist in the same department in Case No. UC99 H-30, are hereby dismissed.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Maris Stella Swift, Commission Chair

Harry W. Bishop, Commission Member

C. Barry Out, Commission Member

Dated: