



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN EMPLOYMENT RELATIONS COMMISSION  
BUREAU OF EMPLOYMENT RELATIONS  
RUTHANNE OKUN  
DIRECTOR

ORLENE HAWKS  
DIRECTOR

January 18, 2019

***Via Email and U.S. Mail***

Reginal Jenkins  
City of Detroit  
Labor Relations Division  
2 Woodward Ave., Suite 332  
Detroit, MI 48226

Juanita Sanders  
Association of Professional  
Construction Inspectors  
535 Griswold St., Suite 555-111  
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Reno Thompson  
AFSCME Council 25, AFL-CIO  
600 W. Lafayette, Suite 500  
Detroit, MI 48226

Re: **City of Detroit -and- AFSCME Council 25, AFL-CIO -and- Association of Professional Construction Inspectors**  
MERC Case No. R18 J-078

Greetings:

Enclosed is a True Copy of the Michigan Employment Relations Commission's Decision and Order in the above-entitled matter, which is being sent to you electronically, as well as by U.S. Mail. The date of mailing of the Decision should be considered as the date of its issuance for purposes of an appeal. **Should you decide to appeal this case to the Michigan Court of Appeals, please use the MERC Case No. listed above (not the MAHS docket number) on all correspondence with the Court and this Agency. This will ensure proper and prompt processing of your appeal.**

Please note that this Order may be edited prior to publication in the Michigan Public Employee Reporter and posting on the MERC website. You are requested to immediately notify us of any typographical errors or non-substantive errors, so that corrections may be made prior to formal publication and posting on the Commission's website. Please forward suggested revisions to [merc-ulps@michigan.gov](mailto:merc-ulps@michigan.gov). **We anticipate that publication and posting will occur no earlier than five (5) days after the date of this letter; therefore, it is imperative that we receive your suggested revisions before that time.**

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Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ruthanne Okun". The signature is written in a cursive style with a large initial "R".

Ruthanne Okun, Director  
Bureau of Employment Relations/MERC

cc: City of Detroit (***Via U.S. Mail***)  
AFSCME Council 25, AFL-CIO (***Via U.S. Mail***)  
Association of Professional Construction Inspectors (***Via U.S. Mail***)  
casefile

STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION

In the Matter of:

CITY OF DETROIT  
Public Employer,

Case No. R18 J-078

-and-

AFSCME COUNCIL 25, AFL-CIO,  
Labor Organization-Petitioner,

-and-

ASSOCIATION OF PROFESSIONAL CONSTRUCTION INSPECTORS,  
Labor Organization-Incumbent.

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APPEARANCES:

Reginald Jenkins, Administrator of Labor Relations, for the City of Detroit

Reno Thompson, Organizer, AFSCME Council 25, AFL-CIO

Juanita Sanders, President, Association of Professional Construction Inspectors

**DECISION AND DIRECTION OF ELECTION**

On October 15, 2018, AFSCME Council 25, AFL-CIO, filed a petition for representation election with the Michigan Employment Relations Commission (the Commission) pursuant to Section 12 of the Public Employment Relations Act (PERA), 1965 PA 379, as amended, MCL 423.212. Pursuant to Section 13 of the Act, the petition was assigned for hearing to Julia C. Stern, Administrative Law Judge (ALJ) for the Michigan Administrative Hearing System.<sup>1</sup> Based on the record of a hearing held on December 18, 2018, the Commission finds as follows.

The Petition and Positions of the Parties:

Petitioner AFSCME Council 25, AFL-CIO, seeks an election among the employees in a bargaining unit consisting of all full-time and regular part-time senior construction inspectors, construction inspectors, seasonal construction inspectors, and material lab technicians employed

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<sup>1</sup> MAHS Hearing Docket 18-021979

by the City of Detroit (the Employer).<sup>2</sup> This unit is currently represented by the Association of Professional Construction Inspectors (the Incumbent). Petitioner seeks to add the employees in the Incumbent's bargaining unit to an existing unit of building inspectors and other employees of the Employer represented by Petitioner and its affiliated Local 1227.

The Incumbent currently represents two separate bargaining units of employees of the City of Detroit. The employees covered by the petition make up the unit known as Unit 2201. The Incumbent's position is that employees in this unit are not interested in being represented by Petitioner and that the petition should be dismissed. The Employer does not object to the petition. The three parties confirmed on the record that there were no other issues that needed to be resolved before an election was held.

At the hearing, the ALJ explained to the Incumbent about the Commission's showing of interest requirement, including that the Commission requires a showing of interest from at least thirty percent of the employees in the unit or group covered by the petition to discourage the filing of frivolous election petitions. She explained that the showing of interest is not used to determine whether a union should be certified as the exclusive bargaining representative for the employees covered by the petition, but merely to determine whether an election should be held. She also explained that the Commission conducts secret ballot elections and that a union must receive a majority of the votes cast in an election in order to be certified by the Commission as the exclusive representative. The ALJ further explained that the parties other than the petitioner are not entitled to examine the signatures submitted by a petitioner as its showing of interest.

The ALJ stated on the record that, in this case, a Commission election agent made an initial determination that, based on the number of employees listed on the petition as being in the unit, Petitioner had established a showing of interest. During the hearing, a recess was taken to allow the ALJ to check Petitioner's showing of interest against a list provided by the Employer of the names and classifications of employees in Unit 2201. When the hearing recommenced, the ALJ confirmed that based on the Employer's list, Petitioner had established an adequate showing of interest. The Incumbent stated that it still objected to an election being held.

#### Discussion:

As we stated in *University of Michigan*, 1971 MERC Lab Op 1053, a petition for election is merely a document invoking the Commission's jurisdiction; the showing of interest accompanying the petition is not dispositive of the issue of representation. Once a showing of interest for a petition has been established at the commencement of a representation proceeding, it is not subject to redetermination or attack because of employee turnover, because individuals who signed representation cards have changed their minds, or because they allegedly misunderstood what they were signing. *Gogebic Cmty College*, 1974 MERC Lab Op 780; *Lakeville Cmty Schs*, 1988 MERC Lab Op 641. Since the sufficiency of a showing of interest is

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<sup>2</sup> The unit description was amended at the hearing to include the classification of material lab technician after all three parties agreed, in discussions taking place before the hearing, that this classification is part of the Incumbent's unit. Additionally, as noted below, during the hearing, the ALJ checked the showing of interest against a list that included the material lab technician classification and confirmed that the Petitioner had established an adequate showing of interest.

an administrative determination, an incumbent union is not entitled to have the showing of interest produced at hearing. *Broadstreet Medical, Inc*, 1967 MERC Lab Op 592; *Ingham Co*, 1987 MERC Lab Op 326. As no issue was raised at the hearing which would preclude a representation election in this matter, we direct an election as follows.

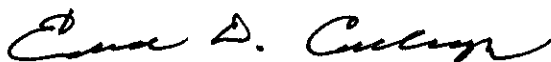
**ORDER DIRECTING ELECTION**

We conclude that a question concerning representation exists within the meaning of Section 12 of PERA. Accordingly, we hereby direct an election among the following employees:

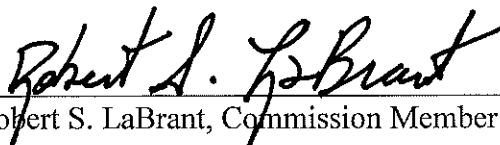
All full-time and regular part-time senior construction inspectors, construction inspectors, seasonal construction inspectors, and material lab technicians employed by the City of Detroit.

Pursuant to the attached Direction of Election, the above employees will vote whether they wish to be represented by the Association of Professional Construction Inspectors, by AFSCME Council 25, AFL-CIO, or by neither labor organization. If a majority of employees in this group vote to be represented by AFSCME Council 25, AFL-CIO, the group will be included in a unit of building inspectors and other employees of the City of Detroit currently represented by AFSCME Council 25, AFL-CIO and its affiliated Local 1227.

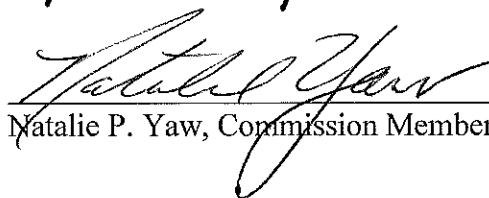
MICHIGAN EMPLOYMENT RELATIONS COMMISSION



Edward D. Callaghan, Commission Chair



Robert S. LaBrant, Commission Member



Natalie P. Yaw, Commission Member

Dated: JAN 18 2019

## DIRECTION OF ELECTION

IT IS HEREBY ORDERED THAT AN ELECTION BY SECRET BALLOT SHALL BE CONDUCTED AMONG THE EMPLOYEES WITHIN THE UNIT OR UNITS FOUND TO BE APPROPRIATE IN THE COMMISSION'S DECISION ON THIS MATTER. THE CHOICES ON THE BALLOTS SHALL BE AS SET FORTH IN THE COMMISSION'S DECISION.

ELIGIBLE TO VOTE ARE THOSE EMPLOYEES DESIGNATED IN THE ORDER DIRECTING ELECTION.

INELIGIBLE TO VOTE ARE EMPLOYEES WHO HAVE QUIT OR BEEN DISCHARGED FOR CAUSE, AND WHO HAVE NOT BEEN REHIRED OR REINSTATED BEFORE THE ELECTION DATE.

IT IS FURTHER ORDERED THAT THE EMPLOYER SHALL PREPARE AN ELIGIBILITY LIST IN ALPHABETICAL ORDER, CONTAINING ELIGIBLE VOTERS' NAMES AND ADDRESSES IN ACCORDANCE WITH THE ABOVE DESCRIPTION AND SUBMIT COPIES OF SUCH LIST FORTHWITH TO THE EMPLOYMENT RELATIONS COMMISSION AND TO THE OTHER PARTIES.

IT IS FURTHER ORDERED THAT THE ELECTION SHALL BE CONDUCTED ON THE PREMISES OF THE EMPLOYER OR BY MAIL BALLOT AT SUCH TIME AND DATE AS A COMMISSION AGENT SHALL DETERMINE AFTER CONSULTATION WITH THE PARTIES.

IT IS FURTHER ORDERED THAT THE EMPLOYER SHALL CAUSE TO BE POSTED IN PROMINENT PLACES IN AND ABOUT THE PREMISES, SAMPLE BALLOTS AND NOTICES OF ELECTION (FURNISHED BY THE COMMISSION), SETTING FORTH THE TIME, DATE, AND PLACE OF THE ELECTION AT LEAST FIVE (5) DAYS PRIOR TO SAID ELECTION.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION