



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON REGIONAL OFFICE
TECH WORLD PLAZA NORTH
800 K Street, NW, Suite 910
Washington, DC 20001-8000
(202) 482-6700 FAX: (202) 482-6724

January 26, 2005

Priscilla Lewis, Chief
Labor & Employee Relations
U.S. Department of Housing and Urban Development
451 7th Street, SW, Room 2152
Washington, DC 20410

Perry Casper, Executive VP
AFGE, HUD Council #222
400 SW Sixth Avenue, Suite 700
Portland, OR 97204-1632

Re: U.S. Department of Housing and Urban Development
and AFGE, HUD Council #222
Washington, DC
Case No. WA-CA-05-0174

Dear Ms. Lewis and Mr. Casper:

Enclosed is a copy of the unfair labor practice charge, which has been filed with this Office and assigned the case number shown above. To complete the investigation expeditiously, and to make a determination as to the merits of the charge, it is important that the parties cooperate fully during the ensuing investigation of the charge. You will be contacted shortly by the Agent who has been (will be) assigned to investigate the charge. If you have any questions, please contact directly either the Agent or Regional Point of Contact indicated below.

If you are the party who filed the charge (Charging Party) and have not already done so, please submit the following so that is **received** by this office by **February 7, 2005**:

1. A list of witnesses- names, positions, day and evening telephone numbers, and a summary of their expected testimony about their personal knowledge of the charge
2. Copies of all relevant documents, with an index if submission is voluminous

Section 2423.4(e) of the FLRA's Regulations requires that you provide this evidence/information. If you did not submit any evidence or information when you filed the charge and do not provide the material noted above so that this Office has **received** it by **February 7, 2005**, the charge may be dismissed for lack of cooperation. The Charging Party is responsible for confirming that all supporting evidence and information has been received by the date noted above.

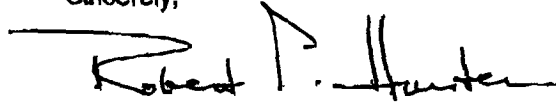
If you are the party against whom this charge is filed (Charged Party), you are requested to review the allegations in the charge and submit a written position to this Office. You also are expected to cooperate

fully in the investigation and will be asked by the Agent to supply documentary evidence or witnesses as is deemed necessary.

To assist both parties in understanding how an unfair labor practice charge is processed, I have enclosed an information sheet describing the investigatory process. Also, if someone other than you will be representing your party in this matter, please complete the enclosed "Notice of Designation of Representative."

The General Counsel encourages the informal resolution of unfair labor practice charges and the assigned Agent is available to assist the parties in resolving this matter. In addition, the parties may jointly and voluntarily request that the Region conduct an Alternative Case Processing Procedure. More information concerning the General Counsel's dispute resolution services is contained in the enclosed question and answer sheet.

Sincerely,



Robert P. Hunter
Regional Director

Assigned Agent: William Fleischman, Field Attorney
(202) 482-6700 ext. 6019 email: bfleis@flra.gov

Enclosed: Description of Unfair Labor Practice Investigation Procedure
Alternative Dispute Resolution Services Q&As
Notice of Designation of Representative



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
CHARGE AGAINST AN AGENCY

FOR FLRA USE ONLY

Case No. WA-CA-05-0174

Date Filed 11/3/2005

Complete instructions are on the back of this form.

1. Charged Activity or Agency

Name: U.S. Dept. of Housing and Urban Development
Address: 451 Seventh Street SW
Washington DC 20410
Tel.#: (202) 708-1492 Ext.
Fax#: (202) 708-1492

2. Charging Party (Labor Organization or Individual)

Name: AFGE HUD Council #222
Address: P.O. Box 5961
Boston, MA 02114
Tel.#: (617) 994-8200/8264 Ext.
Fax#: (617) 994-8200/8264

3. Charged Activity or Agency Contact Information

Name: Norman Mesewicz
Title: Deputy Director Labor and Employee Relations
Address: 451 Seventh Street SW Wash. DC. 20410
Tel.#: (202) 708-1492 Ext.
Fax#: ()

4. Charging Party Contact Information

Name: Perry Casper
Title: EVP AFGE HUD Council #222
Address: 400 SW Sixth Avenue, Suite 700
Tel.#: ((503) 326-4036 Ext. Portland, OR 97204-1632
Fax#: (503) 326-2663

5. Which subsection(s) of 5 U.S.C. 7116(a) do you believe have been violated? (See reverse) (1) and sections (2)(5)(7)&(8)

6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.

See Attached Page with information requested.

DATE OF ACTION: SEPT. 20-24, 2004

7. Have you or anyone else raised this matter in any other procedure? No Yes If yes, where? (see reverse)

8. I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001. THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX #3 BY (check "x" box) Fax 1st Class Mail In Person

Commercial Delivery Certified Mail

Perry Casper
Type or Print Your Name

Perry Casper
Your Signature

Jan 7, 2005
Date

The United States Department of Housing and Urban Development (HUD) had discussed the establishment of a Departmental Office of Affordable Housing Preservation and had concurrence to establish this new Office by the Deputy Secretary of HUD in a meeting held January 22, 2004.

On February 17, 2004 HUD's Assistant Secretary for Administration released a memo to the Assistant Secretary for Housing-Federal Housing Commissioner outlining and providing an overview of the establishment of a Departmental Office of Affordable Housing Preservation.

On July 2, 2004 HUD provided AFGE HUD Council #222 (the Union) via memorandum Notice of the intent to establish the Office of Affordable Housing Preservation (OAHP) and opportunity to bargain. The Union responded within the required time frames requesting to bargain over the conditions of the establishment of OAHP. Contractual requirements for setting the date and conducting negotiations were followed between the Union and the Department's Labor Relations Office.

All current unit employees performing the current work to be transitioned into the new Office had been excluded from union membership after the union had lost a certification of unit appeal with the finding that the employees shared no community of interest with the Housing employees of HUD. New positions were to be in the bargaining unit.

Negotiations were held September 20, 2004 through September 24, 2004 and minor changes were completed the following week of September 27, 2004.

It was discovered at negotiations that all bargaining proposals dealing with the hiring of employees and some dealing with conditions of employment were unable to be negotiated since the agency had hired over 80% of the employees into the new Office of OAHP prior to meeting with the union to negotiate. This action occurred prior to the establishment of the Office of Affordable Housing Preservation created by the agency. The Negotiated Supplement Subject was "Establishment of the Office of Affordable Housing Preservation" and the negotiated Supplement's Scope reads, "The scope of this Supplement encompasses the impact and implementation on bargaining unit employees in the Office of Affordable Housing Preservation (OAHP)." The new OAHP was to become operational October 1, 2004.

All new Office of Affordable Housing Preservation employees are now considered to have a community of interest with their housing employee counterparts and are bargaining unit employees. Including having non-grade controlling work being transferred to the new OAHP employees.

The Union's first charge is that HUD hired employees into a newly established Departmental Office prior to the establishment of the office itself and prior to negotiations. This would appear to violate 7116 (a) (5).

The Union's second charge is that the hiring precluded the free and full ability to negotiate in good faith negotiable issues concerning bargaining unit employees. This would appear to violate 7116 (a) (5).

The Union's third charge is that the hiring occurred following a merit staffing process that denied prior input and negotiations from the union that would have allowed for greater protection and fairness of current bargaining unit employees. This would appear to violate 7116 (a) (5) and part (2) and possibly part (7).

The fourth charge is that out of the (possibly 600) applications for the positions not one current bargaining unit employee was hired into a position. This would appear to violate 7116 (a) (1) and (2).

The fifth charge is that the agency specifically failed to allow for contractual protections of bargaining unit union members in their hiring prior to negotiations. This would appear to violate 7116 (a) (2) (5) and (7).

The seventh charge is that the agency specifically stated at bargaining that it did not matter if the union or the agency signed off on any negotiated supplement to the contract, that this new Office was going to be created affective October 1, 2004. This would appear to violate 7116 (a) (1) (2) and (5).

The eighth union charge is that those employees excluded from the bargaining unit with the loss of the classification appeal, were term employees, but have become permanent employees by this hiring which was conducted prior to the establishment and creation of the OAHP. This would appear to violate 7116 (a) (1)(2) (5) and (7). This process probably violated fair hiring (merit) practices and EEO issues as well.

The Union's lead negotiator for OAHP was Eddie Eitches, President of AFGE HUD Local 476 for AFGE Council #222. He is located in the HUD Headquarters Office and can be reached at (202) 708-3077.

The Agencies Lead Negotiator was Deborah Swann located at the HUD Headquarters Office and can be reached at (202) 708-1492.

**Other Union negotiators and witnesses include:
Perry Casper, AFGE HUD Council VP (503) 326-4036
Deborah Slakes, (414) 297-3214 x8678
Shirley Caruso, (202) 708-9395
Martin Kaplan, (212) 542-7912**