



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Rhode Island State Labor Relations Board

Building 73
1511 Pontiac Avenue
Cranston, Rhode Island 02920-4407

OPEN MINUTES BOARD MEETING

TIME: 9:00 a.m.
DATE: Tuesday, April 6, 2004
PLACE: 1511 Pontiac Ave., Building #73, 3rd Floor, Cranston, RI 02920

BOARD MEMBERS IN ATTENDANCE: Walter J. Lanni, Chairman
Frank J. Montanaro
Joseph V. Mulvey
Gerald S. Goldstein
John R. Capobianco
Elizabeth S. Dolan
Ellen L. Jordan

OTHERS PRESENT: Margaret Hogan, Esquire
Robyn H. Golden, Acting Administrator
Linda L. Esposito, Secretary

Chairman Lanni called the meeting to order in Open Session at 9:13 a.m.

All members reviewed the Open Minutes of the March 23, 2004 Board Meeting. A Motion was made by John Capobianco and seconded by Joseph Mulvey to accept the Open Minutes as written, and it was unanimously

VOTED: by all Board Members to accept the minutes as written.

The meeting continued in open session

DRAFTED DECISIONS:

1. Case No. EE-3671
State of RI, DCYF/Dept. of Human Services & SEIU, District 1199

This case was heard formally by Walter Lanni, Joseph Mulvey, Frank Montanaro, John Capobianco, Elizabeth Dolan, Ellen Jordan and Gerald Goldstein.

ORDER & DIRECTION OF ELECTION: By virtue of and pursuant to the power vested in the Rhode Island State Labor Relations Board by the RI Labor Relations Act, it is hereby:

DIRECTED that an election by secret ballot shall be conducted within sixty (60) days hereafter, under the supervision of the Board or its agents, or designees of the American Arbitration Association, at a time, place and during hours to be fixed by the Board.

Attorney John Turano addressed Chairman Lanni with his request that the State's Motion to Recuse and Motion for Reconsideration be addressed by the Board. Chairman Lanni advised Attorney Turano that Board Meetings are not open for public discussion, but the Motion to Recuse and Motion for Reconsideration would be taken under advisement and put before the Board for a vote.

Chairman Lanni requested that the Board Members review the Motion for Recusal. Elizabeth Dolan requested a briefing from legal counsel. John Capobianco made a Motion for the Board to go into Closed Session for the purpose of consultation with Attorney Margaret Hogan regarding Case No. EE-3671 State of RI, DCYF/Dept. of Human Services & SEIU, District 1199, as well as the Motion to Recuse and the Motion for Reconsideration filed in this matter, and the minutes to be closed, pursuant to 42-46-5(a)(2)(4) of the Open Meetings Law. It was seconded by Frank Montanaro, and it was unanimously

VOTED: for the meeting to go into closed session and to close the minutes.

The meeting and minutes were closed at 9:20 a.m

The meeting resumed in Open Session at 9:40 a.m. for the purposes of voting on the signing of the decision in Case No. EE-3671 State of RI, DCYF/Dept. of Human Services & SEIU, District 1199, as well as the Motion to Recuse and the Motion for Reconsideration filed in this matter.

Chairman Lanni advised all persons present that no motions were made and no votes taken during closed session, pursuant to Subsection 2 of RI General Laws, Open Meetings.

Motion to Recuse

On the advice of counsel, Chairman Lanni stated that the Motion to Recuse is improperly put before the Board, as the Board does not have the power to rule on whether or not an individual should recuse him or herself from participation in any matter before the Board, as that is an individual decision.

Motion for Reconsideration

Chairman Lanni asked of the Board Members who originally voted on the decision in the affirmative if anyone of them would be interested in voting to reconsider. None of the Board Members responded. Having received no response, Chairman Lanni moved on to a vote on the decision itself.

Gerald Goldstein made a request of Chairman Lanni that he be allowed to read into the record his written dissenting opinion, copies of which had previously been given to each Board Member. Chairman Lanni granted Mr. Goldstein's request and Mr. Goldstein proceeded to read his dissenting opinion into the record. Upon completion, Chairman Lanni asked Mr. Goldstein if he would like to have his written dissenting opinion contained in the decision and Mr. Goldstein replied that he would. Elizabeth Dolan advised Chairman Lanni that she was in agreement with the seventeen points raised by Mr. Goldstein in his dissenting opinion; and concluded by saying that these Home Daycare Providers are independent contractors and not state employees. Ellen Jordan advised that she was also in agreement with the seventeen points of Mr. Goldstein's dissenting opinion as well; she also stated that she believes that the individuals are independent contractors and not employees, therefore, they are not entitled to the rights of collective bargaining under the RI State Labor Relations Act. Mr. Goldstein requested that Ms. Dolan's and Ms. Jordan's statements be incorporated as part of the dissent judgment. A Motion was made by Elizabeth Dolan and seconded by Ellen Jordan to include the dissents in the written Decision and Order. All Board Members voted in favor of the Motion.

After review of the drafted decision, a Motion was made by Frank Montanaro and seconded by Joseph Mulvey to sign the Decision and Order and Direction of Election, as written. All Board Members present voted in favor of the Motion and did sign the Decision and Order and Direction of Election, as written, and with the addition of Dissenting Opinions attached by Gerald Goldstein, Elizabeth Dolan and Ellen Jordan. Gerald Goldstein, Elizabeth Dolan and Ellen Jordan signed the Decision as dissenting.

Chairman Lanni advised all interested parties that the written Decision and Order would be available for viewing on our website between 12 noon and 1 p.m.

A Motion was made by Joseph Mulvey and seconded by John Capobianco for the Board to take a ten minute break. All Board Members voted in favor of the Motion. The meeting recessed at 10:00 a.m.

The meeting reconvened in Open Session at 10:10 a.m.

A Motion was made by Joseph Mulvey and seconded by Gerald Goldstein to table all other items remaining on the Board Agenda until the May 11, 2004 Board Meeting. All Board

Members voted in favor of the Motion.

A Motion to adjourn was made by Frank Montanaro, and it was seconded by Joseph Mulvey, and it was unanimously,

VOTED: to adjourn the meeting at 10:15 a.m