

**In the Matter of Uzi Einey,<sup>1</sup> d/b/a Riv Realty.  
Case AO-247**

24 August 1983

**ADVISORY OPINION**

**BY CHAIRMAN DOTSON AND MEMBERS  
JENKINS AND HUNTER**

A petition for advisory opinion, with exhibits, was filed on 4 May 1983 by Uzi Einey, d/b/a Riv Realty, herein the Petitioner, pursuant to Sections 102.98 and 102.99 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, for a determination whether the Board would assert jurisdiction over its operation. Subsequently, Local 32B-32J, Service Employees International Union, AFL-CIO, herein the Union, filed a response to the petition, and, thereafter, Petitioner filed a memorandum supporting its commerce data submitted herein.

In pertinent part, the submissions allege:

1. On 23 February 1983 the New York State Labor Relations Board, herein the State Board, certified the Union as the exclusive representative of "the employee" employed by the Petitioner at 839 West End Avenue, New York City, for the purposes of collective bargaining. There is pending before the State Board a charge, Case SU-54784, filed against the Petitioner alleging a refusal to bargain with the Union.

2. The Petitioner is engaged in the business of real estate building management, and operation and maintenance, and owns, operates, manages, and controls the apartment building described above. The petition alleges that the Petitioner generates in excess of \$500,000 per year in rental income.

3. The above commerce data is denied by the Union, and the State Board has made no findings with respect thereto.

4. There is an unfair labor practice proceeding filed by the Petitioner against the Union, Case 2-CB-9893, pending before this Board.

5. Although served with a copy of the petition for advisory opinion, no response, as provided by the Board's Rules and Regulations, has been filed by the State Board.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

On the basis of the foregoing, the Board is of the opinion that:

Our rules providing for the issuance of advisory opinions were promulgated to provide a method for state agencies and persons in doubt to determine whether the Board would assert jurisdiction in certain circumstances. However, where, as here, there is pending before the Board a statutory unfair labor practice proceeding where a binding adjudication of the jurisdictional issue can be obtained from the Board within the framework of that proceeding, and no other consideration suggesting an urgent need for earlier Board determination of the jurisdictional question alone is brought to the Board's attention, the underlying purpose of the advisory opinion procedures is better served, and without unnecessary duplication and possible confusion, if the Board follows the practice of confining itself solely to the resolution of the statutory proceeding pending before it.<sup>2</sup>

Accordingly, it is hereby ordered that the petition for advisory opinion be, and it hereby is, dismissed.

<sup>2</sup> *Hotel & Restaurant Employees Local 49 (Diamond Springs Hotel Corporation)*, 236 NLRB 711 (1978). See also *Maitre'D Restaurant*, 145 NLRB 1161 (1964).