

In the Matter of Uzi Einey, d/b/a Riv Realty. Case
AO-247

8 March 1984

ORDER GRANTING MOTION AND
ADVISORY OPINION

CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN AND HUNTER

On 24 August 1983 the Board dismissed¹ the Employer's petition for an advisory opinion because there was an unfair labor practice proceeding, Case 2-CB-9893, pending before the Board which would resolve the jurisdictional issue.

On 14 September 1983 the Employer filed a motion for reconsideration, with attachments, arguing that the unfair labor practice charge had been dismissed,² and the Board, therefore, should now determine whether it would assert jurisdiction over the Employer.

As reflected in the Board's 24 August Advisory Opinion, the State Board certified that the Union involved as the exclusive representative of "the [sole] employee" of the Employer at 839 West End Avenue, New York City. As the unfair labor practice proceeding has been dismissed, it is now appropriate to rule on the jurisdictional issue.

The Employer's petition for an advisory opinion filed on 4 May 1983 reflects that the Employer owns, operates, manages, and controls an apartment building located at 675 West End Avenue,

New York City, which generates in excess of \$500,000 per year in rental income. The Employer further alleges that the business venture involved in the instant proceeding grosses in excess of \$200,000 per year, and that it has partnership interests in other buildings in the New York City area, which the combined income exceeds \$2,500,000 per year. Upon information and belief, the Employer's commerce data is denied by the Union, and the State Board has made no findings with respect thereto.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board having considered the matter,

IT IS ORDERED that the Employer's motion for reconsideration be granted. It is the Board's advisory opinion that, as it appears the gross rental revenues derived from the two apartment buildings involved exceed the \$500,000 standard established by the Board for residential apartments, assuming the Petitioner is, with respect to these two buildings, a single employer, and assuming further that the Employer's out-of-state purchases are more than de minimis, satisfying the Board's statutory jurisdiction, it would effectuate the policies of the Act to assert jurisdiction.³

Accordingly, the parties are advised, under Section 102.103 of the Board's Rules and Regulations, that, based on the allegations and assumptions herein, the Board would assert jurisdiction over the operations of the Employer with respect to labor disputes cognizable under Sections 8, 9, and 10 of the Act.⁴

¹ 267 NLRB 325.

² On 11 May 1983 the Employer filed with the Board a copy of an unfair labor practice charge, Case 2-CB-9893, that it had filed against the Union on 9 May 1983. Thereafter, on 27 June 1983, the Board's Regional Director dismissed Case 2-CB-9893 on the ground that no further proceedings on the charge were warranted. At the time the Board issued its Advisory Opinion it was not apprised that the charge had been dismissed.

³ *Parkview Gardens*, 166 NLRB 697 (1967).

⁴ The Board's advisory opinion proceedings "are designed primarily to determine questions of jurisdiction by application of the Board's discretionary standards to the 'commerce' operations of an employer." *Walker Butler, P.J., Superior Court, Cook County*, 138 NLRB 221 (1962).