

**In the matter of 3280 Realty Corp.** Case AO-285

February 28, 1991

## ADVISORY OPINION

BY CHAIRMAN STEPHENS AND MEMBERS  
CRACRAFT, DEVANEY, OVIATT, AND  
RAUDABAUGH

On January 28, 1991, the Petitioner, 3280 Realty Corporation, filed a petition for an advisory opinion pursuant to Sections 102.98 and 102.99 of the National Labor Relations Board's Rules and Regulations seeking to determine whether the Board would assert jurisdiction over its operations.

In pertinent part the petition alleges as follows:

1. There is currently pending before the New York State Labor Relations Board (the SLRB) an unfair labor practice charge, Case No. SU-57809, filed by Local 32E, Service Employees International Union, AFL-CIO (the Union).

2. The general nature of the Petitioner's business is real estate. The Petitioner manages and controls several residential premises located in Bronx, New York, including the premises located at 3280 Rochambeau Avenue and 3315 Hull Avenue which, respectively, generate in excess of \$433,000 and \$256,000 per year in income. The Petitioner's combined income exceeds \$689,000 per year. Its out-of-state oil purchases exceed \$30,000 per year.

3. The Petitioner is unaware whether the Union admits or denies the above commerce data, and the SLRB has made no findings with respect thereto.

4. There is no representation or unfair labor practice proceeding involving the same labor dispute pending before the Board.

Although all parties were served with a copy of the petition for advisory opinion, none filed a response as permitted by Section 102.101 of the Board's Rules and Regulations.

Having duly considered the matter, the Board is of the opinion that it would assert jurisdiction over the Petitioner. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential buildings.<sup>1</sup> As the Petitioner alleges that its total annual income from the residential premises it manages and controls exceeds \$689,000, assuming the Petitioner is a single employer with respect to those premises, the Petitioner clearly satisfies the Board's discretionary standard.<sup>2</sup> As the Petitioner further alleges that its annual out-of-state purchases exceed \$30,000, the Petitioner also clearly satisfies the Board's statutory standard for asserting jurisdiction.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Petitioner.

<sup>1</sup> See *Parkview Gardens*, 166 NLRB 697 (1967) (residential apartments), and *Imperial House Condominium*, 279 NLRB 1225 (1986), aff'd. 831 F.2d 999 (11th Cir. 1987) (condominiums and cooperatives). We assume that the "residential premises" referred to in the petition are one of these types of residential buildings.

<sup>2</sup> The Board has traditionally aggregated the gross revenues derived from all residential buildings managed by an employer in determining whether the employer satisfies the Board's discretionary standard. See, e.g., *Mandel Management Co.*, 229 NLRB 1121 (1977).