

1025-45 Associates and Hagar Management Co., Petitioners and Local 32B-32J, Service Employees International Union, S.E.I.U. Union. Case AO-289

September 17, 1991

ORDER DENYING PETITION FOR
ADVISORY OPINION

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND OVIATT

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on July 18, 1991, 1025-45 Associates and Hagar Management Co. (Petitioners) filed a petition for an Advisory Opinion as to whether the Board would assert jurisdiction over their operations.

In pertinent part, the petition alleges as follows:

1. An unfair labor practice proceeding, Case SU-57941, is currently pending before the New York State Labor Relations Board (SLRB) in which Local 32B-32J, Service Employees International Union, S.E.I.U. (the Union) is alleging that Petitioner Associates discharged two employees because of their membership in and activities on behalf of the Union.

2. Petitioner Hagar is a corporation engaged in, inter alia, the business of performing the services of a managing agent for residential apartment buildings in the City of New York, including a building known as 1025-45 St. Johns Place, Brooklyn, New York (the subject building). Petitioner Hagar is a joint employer with the owners of the apartment buildings, and is the joint employer along with Petitioner Associates of the employees at the subject building.

3. During the 12 months preceding the filing of the instant petition, the gross rent revenues of the apartment buildings managed by Petitioner Hagar was in

excess of \$500,000. During the same period, Hagar purchased over \$50,000 worth of goods, supplies, commodities, and services which originated outside the State of New York.

4. The Union neither admits nor denies the aforementioned commerce data, and the SLRB has not made any findings in that respect.

Following the filing of the instant petition for Advisory Opinion, on August 5, 1991, the Regional Director for Region 29 of the National Labor Relations Board advised the Board that a representation petition had recently been filed by another union, Factory and Building Employees Union, Local 187, seeking to represent the employees at the subject building. Thereafter, on August 25, 1991, the Regional Director also filed a motion to intervene in the instant Advisory Opinion proceeding. The Regional Director advised the Board in its motion that he had recently issued an unfair labor practice complaint against Petitioners Hagar and Associates at the subject building, alleging that they had violated Section 8(a)(1) and (3) of the Act in various respects.

Having duly considered the matter, we grant the Regional Director's motion to intervene and find that the petition for Advisory Opinion should be denied. The Board's longstanding policy, based on sound principles of administrative efficiency and economy, is that a petition for advisory opinion will not be entertained where, as here, a statutory representation and/or unfair labor practice proceeding is pending in which the jurisdictional question may be addressed.¹ Accordingly, as there is no indication in the instant proceeding that a more expeditious jurisdictional determination is needed, we deny the petition for Advisory Opinion.

¹ See, e.g., *International Bureau for Protection & Investigation*, 236 NLRB 1356 (1978), and cases cited there.