

**In the matter of Kenilworth Equities Ltd.** Case AO-299

July 28, 1992

ADVISORY OPINION

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board Rules and Regulations, on June 25, 1992, Kenilworth Equities Ltd. (Kenilworth) filed a petition for an advisory opinion as to 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 Employment Relations Board (NYSERB) a petition filed by Local 32B-32J, Service Employees International Union, AFL-CIO, Case SE-58215, seeking certification as representative of the single-building employee employed by Kenilworth at the premises known as 332-336 East 77th Street, New York, New York.

2. Kenilworth, a New York corporation, is engaged in the business of managing and operating residential apartment buildings within the State of New York, including the building known as 332-336 East 77th Street, New York, New York.

3. Kenilworth has gross revenue in excess of \$500,000 annually in the form of gross annual rent, revenues, and fees for services. In addition, Kenilworth purchases more than \$50,000 worth of goods, supplies, commodities, and services which originate outside the State of New York.

4. Kenilworth has no knowledge of what position, if any, the Union has taken with respect to the commerce data in the proceeding before NYSERB and the

NYSERB has made no findings regarding this commerce data.

5. There are no representation or unfair labor practice proceedings concerning Kenilworth pending before the Board.

Although all parties were served with a copy of the petition for an advisory opinion, none filed a response.

Having duly considered the matter,<sup>1</sup> we find that the Board would assert jurisdiction over Kenilworth. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential premises such as apartments and condominiums. See, e.g., *Carroll Associates*, 300 NLRB 698 (1990); *Coastal Property Services*, 299 NLRB 106 (1990). The petition alleges that Kenilworth's gross revenues are in excess of \$500,000. Accordingly, our discretionary standard has been met. Further, Kenilworth alleges that it purchased over \$50,000 in goods and services originating outside the State of New York.<sup>2</sup> Kenilworth therefore clearly satisfies the Board's statutory standard for asserting jurisdiction.

Based on the above, the parties are advised that the Board would assert jurisdiction over Kenilworth.<sup>3</sup>

<sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>2</sup> See *Sibley County Development Achievement Center*, 306 NLRB 873 fn. 4 (1992):

We assume in this regard that the local suppliers from which the Employer made its "indirect" out-of-state purchases had received the materials directly from outside the State. Cf. *Better Electric*, 129 NLRB 1012 (1960) (such an assumption necessary in order for purchases to constitute indirect inflow under Board's nonretail jurisdictional standard).

<sup>3</sup> The Board's advisory opinion proceedings under Sec. 102.98(a) of the Board's Rules are designed primarily to determine if an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant Advisory Opinion is not intended to express any view regarding whether the Board would certify the Union as the representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40(e) of the Board's Rules.