

**Riverdale Manor Owners Corp. and Zev Pollak Co.  
and Service Employees International Union,  
Local 32E, AFL-CIO.** Case AO-303

June 28, 1993

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's Rules and Regulations, on May 24, 1993, Riverdale Manor Owners Corp. and Zev Pollak Co., jointly referred to here as the Petitioner, filed a petition for an advisory opinion seeking to determine whether the Board would assert jurisdiction over its operations.

In pertinent part the petition alleges as follows:

1. Riverdale Manor Owners Corp. and Zev Pollak Co. are jointly controlled and directed by Zev Pollak, the proprietor and the president of the board and majority shareholder, respectively, of both organizations.

2. There is currently pending before the New York State Employment Relations Board (NYSERB) a representation petition in which Service Employees International Union, Local 32E, AFL-CIO, the Union, seeks to be certified as the collective-bargaining representative of an employee of the Petitioner at a building owned by Riverdale Manor and managed by Pollak located at 288 West 238 Street, Riverdale, New York.

3. The building in question, a rental facility consisting of 73 residential units, is owned by Riverdale Manor and managed by Pollak. It is staffed by one employee, a superintendent, and there are no plans to increase the current staffing level. Pollak supervises and directs the terms and conditions of employment at the building, formulates and implements all of the personnel policies applicable to the employee, and maintains the payroll records for, and pays, the employee.

4. During the past calendar year, Pollak's purchase of materials or services directly from firms located outside the State of New York, or from firms who purchased their materials or services directly from suppliers located outside the State of New York, exceeded \$50,000. Its total gross revenues during the same period, derived solely from the operation of residential buildings in the State of New York, equaled or exceeded \$500,000.

5. The Union has neither admitted nor denied the above commerce data, and the NYSERB has not considered or made any findings with respect thereto.

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

Although all parties were served with a copy of the petition for an advisory opinion, none has 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 premises such as apartments and condominiums. See *Wyndham West at Garden City*, 307 NLRB 136 (1992). Further, it is well settled that the commerce data of joint or single employers may appropriately be combined for jurisdictional purposes. See *373-381 South Broadway Associates*, 304 NLRB 1108 (1991), and cases cited therein. Here, the petition alleges that Zev Pollak is the proprietor, president of the board, and majority shareholder of Riverdale Manor Owners Corp. and Zev Pollak Co., and that he has joint control over, and directs, both organizations. As the petition alleges that the total gross revenues derived by Zev Pollak Co. from the operation of residential buildings in the State of New York during the past calendar year exceeded \$500,000,<sup>1</sup> the Petitioner clearly satisfies the Board's discretionary jurisdictional standard, assuming that Riverdale Manor Owners Corp. and Zev Pollak Co. are in fact a single or joint employer. Further, as the out-of-state purchases of materials and services allegedly exceed \$50,000, the Petitioner also 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>2</sup>

<sup>1</sup>The Board traditionally aggregates 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., *Tudor Realty Services*, 307 NLRB 496 fn. 3 (1992).

<sup>2</sup>The Board's advisory opinion proceedings under Sec. 102.98(a) of the Board's Rules are designed primarily to determine whether 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 on whether the Board would certify the Respondent as a representative of the petitioned-for unit under Sec. 9(c) of the Act. See, generally, Sec. 101.40(e) of the Board's Rules and Regulations.