

3900 MCP Owners Corp. and Finsbury Management, Inc.¹ and Local 32E, Service Employees International Union, AFL-CIO. Case AO-311

March 31, 1994

ADVISORY OPINION

BY MEMBERS STEPHENS, DEVANEY, AND
BROWNING

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on February 16, 1994, 3900 MCP Owners Corp. and Finsbury Management, Inc. filed a petition for Advisory Opinion as to whether the Board would assert jurisdiction over 3900 MCP Owners Corp. In pertinent part, the petition alleges as follows:

1. An unfair labor practice charge filed by the Union in Case No. SU-58602 is currently pending before the New York State Labor Relations Board (the State Board).

2. The Petitioner, 3900 MCP Owners Corp., is the Employer at 3900 Manhattan College Parkway, Bronx, New York 10471. The Petitioner is engaged in the real estate business and manages and controls the residential premises located at 3900 Manhattan College Parkway, Bronx, New York, which generates gross revenues in excess of \$250,000 annually. In addition, the Petitioner manages and controls a number of residential premises located in New York, including 590 Fort Washington Avenue, New York, which generates revenues in excess of \$600,000 annually. The Petitioner's out-of-state oil purchases exceed \$40,000 annually.

¹ The Petitioner listed Finsbury Management, Inc. in the caption of its petition but thereafter made no reference to Finsbury. Moreover, the petition states that "Petitioner 3900 MCP Owners Corp. is the Employer." Accordingly, we make no findings with respect to Finsbury Management.

3. The Petitioner is unaware whether the Union admits or denies the aforesaid commerce data, and the State Board has not made any findings with respect thereto.

4. There are no representation or unfair labor practice proceedings involving this labor dispute pending before the Board.

Although all parties were served with a copy of the petition for Advisory Opinion, no response was filed.

Having duly considered the matter,² the Board is of the opinion that it would assert jurisdiction over the Employer. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential buildings.³ As the Petitioner alleges that its total annual income from the residential premises it manages and controls exceeds \$850,000, assuming the Petitioner is a single employer with respect to those premises, the Petitioner clearly satisfies the Board's discretionary standard.⁴ As the Petitioner further alleges that its annual out-of-state oil purchases exceed \$40,000, 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.

² The Board has delegated its authority in this proceeding to a three-member panel.

³ See *Parkview Gardens*, 166 NLRB 697 (1967) (residential apartments), and *Imperial House Condominium*, 279 NLRB 1225 (1986), affd. 831 F.2d 999 (11th Cir. 1987) (condominiums and cooperatives). We assume that the "residential premises" referred to in the petition is one of these types of residential buildings.

⁴ 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).