

**Merrick Terrace Associates and Local 32B-32J,
Service Employees International Union, AFL-
CIO.** Case AO-307

November 24, 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 October 27, 1993, Employer-Petitioner Merrick Terrace Associates filed a petition for Advisory Opinion as to whether the Board would assert jurisdiction over its operations. In pertinent part, the petition alleges as follows:

1. A proceeding, Case SE-58554, is currently pending before the New York State Employment Relations Board in which the Union is seeking certification of a one-member unit at 491 Merrick Road, Oceanside, New York 11572, known as Merrick Terrace Associates.

2. The Employer maintains its principal place of business at 491 Merrick Road, Oceanside, New York 11572, where it operates a 54-unit residential apartment building.¹

3. During the past calendar year, a representative period, the Employer has had gross revenues equal to or exceeding \$500,000 and has purchased and received at its Oceanside, New York facility goods valued equal

¹ The building is managed by Broadwall Management, but the Employer supervises and directs the terms and conditions of employment as well as the day-to-day activities of the single employee employed at the building.

to or in excess of \$50,000 from firms which in turn, purchased those goods directly from outside the State.

4. The Employer is unaware whether the Union admits or denies the aforesaid commerce data, and the New York State Employment Relations Board has not made any findings with respect thereto.

5. There are no representation or unfair labor practice proceedings involving the Employer 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, 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 apartment buildings.² As the Employer alleges total annual income equal to or exceeding \$500,000, it is clear that the Employer satisfies the Board's discretionary standard. As the Employer further alleges that it annually purchases and receives goods valued equal to or in excess of \$50,000 at its facility from firms which purchased those goods directly from out of the State, the Employer 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 Employer.³

² See *Parkview Gardens*, 166 NLRB 697 (1967).

³ The Board's advisory opinion proceedings under Sec. 102.98(a) 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 whether the Board would certify the Union as representative of the petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.