

Valentine Properties and R & R Management Services, Inc. and Service Employees International Union, Local 32E, AFL-CIO

3029 Briggs Avenue Co. and R & R Management Services, Inc. and Service Employees International Union, Local 32E, AFL-CIO. Cases AO-328 and AO-329

September 19, 1995

ADVISORY OPINION

BY CHAIRMAN GOULD AND MEMBERS COHEN
AND TRUESDALE

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on August 21, 1995, Valentine Properties (Valentine) and R & R Management Services, Inc. (R & R) (jointly, Valentine and R & R), and 3029 Briggs Avenue Co. (Briggs) and R & R (jointly Briggs and R & R) filed petitions for an advisory opinion as to whether the Board would assert jurisdiction over their respective operations. In pertinent part, the petitions allege as follows:

1. A proceeding, Case No. SE-58968, is currently pending before the New York State Employment Relations Board (NYSERB) in which the Union is seeking certification of a one-member unit at 2851 Valentine Avenue, Bronx, New York (the Valentine building), a rental building with 52 residential units.

2. A proceeding, Case No. SE-58962, is currently pending before the NYSERB in which the Union is also seeking certification of a one-member unit at 3029 Briggs Avenue, Bronx, New York (the Briggs building), a rental building with 52 residential units.

3. R & R, a New York corporation with a principal place of business at 32 West 88 Street, New York, New York, is engaged in the business of residential building management. R & R supervises and directs the terms and conditions of employment at the Valentine building on behalf of the owner, Valentine, as well as the day-to-day activities of the single employee employed at the Valentine building. R & R also formulates and implements all personnel policies applicable to that employee and maintains payroll records for and pays the employee. Valentine and R & R are joint employers.

4. R & R supervises and directs the terms and conditions of employment at the Briggs building on behalf of the owner, Briggs, as well as the day-to-day activities of the single employee employed at the Briggs

building. R & R also formulates and implements all personnel policies applicable to that employee and maintains payroll records for and pays the employee. Briggs and R & R are joint employers.

5. During the past calendar year, R & R had gross revenues in excess of \$1 million and purchased materials and services valued in excess of \$50,000 directly from outside the State of New York.

6. The Union has neither admitted nor denied the aforesaid commerce data and the NYSERB has not made any findings with respect thereto.

7. There are no representation or unfair labor practice proceedings involving the parties 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,¹ the Board is of the opinion that it would assert jurisdiction over the Employers. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential buildings.² Further, it is well established that the commerce data of joint or single employers may appropriately be combined for jurisdictional purposes.³ Here the petition alleges that R & R has gross revenues in excess of \$1 million and annually purchases materials and services valued in excess of \$50,000 directly from outside the State of New York, that R & R and Valentine are joint employers, and that R & R and Briggs are joint employers. Thus, assuming that R & R and Valentine are in fact joint employers, and R & R and Briggs are in fact joint employers, they would satisfy the Board's discretionary and statutory standards.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over Valentine and R & R and over Briggs and R & R.⁴

¹The Board has delegated its authority in this proceeding to a three-member panel.

²See *Parkview Gardens*, 166 NLRB 697 (1967) (residential apartments), and *Imperial House Condominium*, 279 NLRB 1225 (1986), aff'd, 831 F.2d 999 (11th Cir. 1987) (condominiums and cooperatives).

³See *373-381 South Broadway Associates*, 304 NLRB 1108 (1991).

⁴The 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 any unit involved here under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.