

209 Hull Realty Corp. and Local 32E, Service Employees International Union, AFL-CIO. Case AO-340

September 30, 1996

ADVISORY OPINION

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND HIGGINS

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on September 4, 1996, 209 Hull Realty Corp. (the Employer), 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. There is pending before the New York State Employment Relations Board (the State Agency) an unfair labor practice charge in Cases SU-59157 and SU-59156, filed by Local 32E, Service Employees International Union, AFL-CIO (the Union).

2. The Employer is in the real estate business and manages and controls the residential premises located at 3311-15 Hull Avenue and 3280 Rochambeau Avenue, Bronx, New York.

3. The subject buildings generate in excess of \$500,000 annually in gross income. Out-of-state oil purchases exceed \$53,000 per year.

4. The Employer is unaware whether the Union admits or denies the aforesaid commerce data and the State Agency 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,¹ 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.² As the Employer alleges that the buildings generate in excess of \$500,000 per year in income, and assuming that the Employer is a single employer with respect to the buildings, it is clear that the Employer satisfies the Board's discretionary standard.³ As the Employer further alleges that it annually purchases products valued in excess of \$50,000 directly from outside the State of New York, 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.⁴

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

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

³See *Mandel Management Co.*, 229 NLRB 1121 (1977).

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 petitioned-for unit under Sec. 9(c) of the Act. See generally Sec. 101.40 of the Board's Rules.