

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 32**

**STANFORD HOSPITAL AND CLINICS<sup>1</sup>**

**Employer**

**and**

**CASE 32-UC-375**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 715 (AFL-CIO, CLC)<sup>2</sup>**

**Petitioner/Union**

**DECISION AND ORDER**

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, herein called the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter called the Board.

Pursuant to Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer and the Petitioner, Service Employees International Union, Local 715 (AFL-CIO, CLCM), stipulated at the hearing that the Employer is engaged in commerce within the meaning of the National Labor Relations Act and is subject to the jurisdiction of the National Labor Relations Board. Based on the parties' stipulation and the record as a whole, I find that the Employer is engaged in commerce within the meaning of Section 2(2), (6), (7) of the Act.

3. The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. The labor organization involved claims to represent certain employees of the Employer.

---

<sup>1</sup> Herein called the Employer.

<sup>2</sup> Herein called the Petitioner.

5. By its petition, the Petitioner seeks to clarify the bargaining unit to include approximately 11 full-time, regular part-time, and relief housekeeping employees in the classifications of senior housekeeping assistant, senior housekeeping specialist, housekeeping aide, housekeeping assistant, housekeeping specialist, and lead housekeeping assistant who perform services on behalf of the Employer at the Center for Clinical Science Research, also known as the Cancer Center or CCSR, located at 269 Campus Drive, Stanford, California 94305-5175. The Employer opposes such clarification. It contends that the Petitioner waived the right to seek inclusion of the disputed employees in the bargaining unit when it agreed during collective bargaining negotiations to include only certain specified work locations in the unit description, and that even if Petitioner did not waive its right to seek unit clarification, clarification is nevertheless inappropriate because Petitioner has failed to rebut the presumption that the employees working at the CCSR form a separate appropriate unit.

#### THE FACTS

Since April 1, 2000, the Employer has operated two acute care hospitals, Stanford Hospital and Lucile Salter Packard Children's Hospital, as well as a variety of clinics serving inpatients and outpatients. The clinics are located in various buildings that generally are near the two hospitals. The Stanford Medical School is also composed of a number of buildings, and the medical school buildings are also generally located near the two hospitals and clinics. The Employer not only staffs its own hospitals and clinics, it also is under contract to supply housekeeping to all but three of the over 20 medical school buildings.<sup>3</sup> On or about August 26, 1998, Petitioner filed a petition in Case No. 32-RC-4504, seeking to represent the following unit of employees:

INCLUDED: All full-time and regular part-time Service and Maintenance employees of the Employer, employed at the Stanford Hospital facility at 300 Pasteur Drive, Stanford, California, and the Lucile S. Packard Children's Hospital facility, 725 Welch Road, Palo Alto, California.

EXCLUDED: All other employees,

---

<sup>3</sup> The housekeeping work at those three medical school buildings is performed by employees of outside contractors, who in turn are managed by the Employer's housekeeping department. I also note that there is some evidence that the Employer contracts to perform similar services for other entities that are located away from the Employer's premises. There are no details regarding this work or the locations of those facilities.

professional employees, technical employees, office clerical employees, employees represented by other labor organizations, guards and supervisors as defined in the Act.

After subsequent negotiations between the parties in an effort to reach a stipulated election agreement, the Regional Director of Region 32 approved a Stipulated Election Agreement on September 17, 1998, which provided for an election in a bargaining unit described as follows:

All full-time and regular part-time non-professional employees of the Employer at its Stanford Hospital, Lucile Salter Packard Children's Hospital, Welch Road, and Blake-Wilbur Drive, Palo Alto, California locations, performing service and patient care functions, including those occupying those job classifications set forth in Appendix A; excluding, employees in out-patient clinics, employees at other locations, employees represented by other labor organizations, RNs, physicians, professional employees, technical employees, skilled maintenance employees, business office/office clerical employees, and all other employees, including those set forth in Appendix B, guards and supervisors as defined in the Act.

The location of the included employees on Appendix A was shown as either Stanford Hospital or Lucile Packard Children's Hospital. No locations were shown for the excluded employees on Appendix B.

The Employer subsequently submitted an Excelsior list which included employees located at facilities other than those expressly noted in the unit description in the Stipulated Election Agreement. On or about November 3, 1998, the Union requested in writing that the Region modify the Excelsior list to exclude employees working in the Admitting Department at the Employer's Hanover facility. The reason given for the request was that the "stipulation agreement specifically includes only those employees who work at 'Stanford Hospital, Lucile Salter Packard Children's Hospital, Welch Road, and Blake-Wilbur Drive, Palo Alto,'" while "the Hanover facility is not located at any of these locations."

On November 19 and 20, 1998, the election was held. Employees performing work at locations other than those specified in the unit description in the Stipulated Election Agreement voted without challenge by either side. While there is record evidence that the Petitioner was aware as early as March 1998 of the general existence of housekeeping employees working at locations other than those specified in the unit description in the Stipulated Election Agreement, there is no record evidence that Petitioner or the Employer were expressly aware on the election

dates that persons performing work at locations other than those specified in the unit description in the Stipulated Election Agreement were voting in the election. A majority of employees voted for union representation. Therefore, on November 30, 1998, the Regional Director of Region 32 issued a certification finding the Petitioner to be the exclusive collective bargaining representative for the following appropriate unit:

All full-time and regular part-time non-professional employees of the Employer at its Stanford Hospital, Lucile Salter Packard Children's Hospital, Welch Road and Blake Wilbur Drive, Palo Alto, California locations, performing service and patient care functions, including those occupying those job classifications set forth in Appendix A; excluding employees in out-patient clinics, employees at other locations, employees represented by other labor organizations, RNs, physicians, professional employees, technical employees, skilled maintenance employees, business office/office clerical employees, and all other employees, including those set forth in Appendix B, guards and supervisors as defined in the Act.

At around the approximate time of the first collective bargaining session, counsel for the Employer learned that persons performing work at locations other than those specified in the stipulation and certification had been permitted to vote in the election.<sup>4</sup> It is undisputed that the Employer did not inform the Petitioner of this fact at any time during the negotiations.

On or about March 23, 1999, Petitioner submitted a proposed collective bargaining agreement, which contained the following proposed recognition language:

Pursuant to the Certification of Representation issued by the National Labor Relations Board on November 20, 1998 in Case No. 32-RC-4504, the Employer recognized SEIU Local 715 as the exclusive bargaining representative of the workers in the following bargaining unit:

All full time, regular part-time and relief non-professional employees of the Employer at its Stanford Hospital, Lucile Salter Packard Children's Hospital, Welch Road and Blake Wilbur Drive locations, performing service and patient care functions, including those occupying those job classifications set forth in Appendix A, and for all employees performing work requiring the same or similar skills as work done by employees listed in Appendix A.

---

<sup>4</sup> While there is record evidence that the Petitioner was aware as early as March 1998 of the general existence of housekeeping employees working at locations other than those specified in the unit description in the Stipulated Election Agreement, there is no record evidence of the date on which the Petitioner learned that persons performing work at locations other than those specified in the certification had been permitted to vote in the election.

This recognition shall extend to all employees who are employed at the Employer's existing and future facilities, to the extent permitted by law.

On or about May 4, 1999, the Employer submitted the non-economic proposals for a collective bargaining agreement, which contained the following proposed recognition language:

UCSF Stanford Health Care recognizes the Union pursuant to the National Labor Relations Act, as amended (NLRA), as the sole and exclusive representative for the purpose of collective bargaining for all non-professional employees performing service and patient care functions employed at Stanford Hospital and Lucile Packard Children's Hospital in positions or classifications listed as included in Appendix A, excluding all employees represented by any other labor organization, excluding all managerial, supervisory, or confidential employees within the meaning of the NLRA, and excluding all other employees.

On or about June 8, 1999, Petitioner submitted a counterproposal which contained recognition language identical to that contained in its March 23, 1999 proposal as set forth above. On or about July 20, 1999, Petitioner submitted an additional counterproposal with modified recognition language as follows:

Pursuant to the Certification of Representation issued by the National Labor Relations Board on November 20, 1998 in Case No. 32-RC-4504, the Employer recognized SEIU Local 715 as the exclusive bargaining representative of the workers in the following bargaining unit:

All full time, regular part-time and relief non-professional employees of the Employer at its Stanford Hospital, Lucile Salter Packard Children's Hospital, Welch Road and Blake Wilbur Drive locations, performing service and patient care functions, including those occupying those job classifications set forth in Appendix A. This recognition shall extend to all employees who are employed at the Employer's existing and future facilities performing service and patient care functions to the extent permitted by law.

On or about August 20, 1999, the Employer submitted a proposal containing the following proposed recognition language:

Pursuant to the Certification of Representation issued by the National Labor Relations Board (NLRB) in Case No. 32-RC-4504,

as modified in Case No. 32-UC-363, UCSF Stanford recognizes the Union as the sole and exclusive representative for the purpose of collective bargaining for all full-time, part-time and relief non-professional employees performing service and patient care functions employed at Stanford Hospital, Lucile Packard Children's Hospital, Welch Road and Blake Wilbur Drive locations in positions or classifications listed as included in Appendix A, excluding those positions or classifications listed as excluded in Appendix A, excluding all employees represented by any other labor organization, excluding all managerial, supervisory, or confidential employees within the meaning of the NLRA, and excluding all other employees.

On or about October 25, 1999, the parties reached a tentative agreement, which contained recognition language identical to that proposed by the Employer on August 20, 1999 as set forth above. The Petitioner and the Employer eventually reached a collective-bargaining agreement effective November 5, 1999 through November 4, 2001. The recognition clause, contained in Article 1.3.1 of the collective-bargaining agreement, states as follows:

Pursuant to the certification of representative issued by the National Labor Relations Board (NLRB) in Case No. 32-RC-4504, as modified in Case No. 32-UC-363, UCSF Stanford recognizes the Union, as the sole and exclusive representative for the purpose of collective bargaining for all full-time, part-time, and relief non-professional employees performing service and patient care functions employed at Stanford Hospital, Lucile Packard Children's Hospital, Welch Road and Blake Wilbur Drive locations in positions or classifications listed as included in Appendix A, excluding those positions or classifications listed as excluded in Appendix A, excluding all employees represented by any other labor organization, excluding all managerial, supervisory or other confidential employees within the meaning of the NLRA, and excluding all other employees.

When the collective bargaining agreement was implemented, the Employer applied the collective bargaining agreement, including the union security clause, to employees at each of the facilities where housekeeping employees had been allowed to vote during the Board election. Although this action expanded the bargaining unit well beyond the facilities listed in

the certification and collective bargaining agreement, the Union did not object to this expansion of the unit. The parties did not include in the unit employees who worked at facilities where the Employer managed the maintenance work performed by outside contractors. The bargaining unit as expanded by the parties after the signing of the collective bargaining agreement, appears to include in excess of 200 employees. Although the bulk of the unit employees are part of the housekeeping department, at least some of the unit employees are in the nursing department, such as the Service Support Assistants.

There is no evidence in the record as to when construction of the CCSR commenced or was concluded, nor is there any evidence as to when, if ever, the Employer notified the Union about the plans for building the CCSR building and about its decision to use its own maintenance employees at the CCSR. In April 2000, housekeeping job openings in the CCSR were posted as non-unit positions at various locations in the Stanford Hospital complex, and various employees began applying for the new positions. In approximately April or May 2000, the CCSR opened, and various housekeeping employees began performing work there. All posted positions had been filled by approximately June 2000. Of the eleven housekeeping positions in the CCSR, ten of them were filled by employees who transferred to the CCSR building from bargaining unit positions.<sup>5</sup>

#### ANALYSIS

In support of its position that the petition in this case should be dismissed, the Employer cites Board cases holding that the Board will dismiss a unit clarification petition filed during the term of a collective bargaining agreement, if the collective bargaining agreement clearly defines the bargaining unit with regard to the classification in dispute in the petition; and if the

---

<sup>5</sup> Much of the work now performed at the CCSR was temporarily performed at the CURL building, which shut down, apparently about the time that the CCSR building opened.

petitioning party, during the course of bargaining, did not reserve its right to file a unit clarification petition regarding the disputed classification. See for example, *Edison Salt*, 313 NLRB 753 (1994). In the cases raised by the Employer, the Board explained that the unions were seeking to disrupt the parties' collective bargaining relationship by seeking to change the unit composition it had specifically agreed to during negotiations. *Id.* at 753. The Employer argues that the recognition clause in its collective bargaining agreement incorporates the Board's certification, which specifically excludes "employees at other locations." Further, the Employer notes that the recognition language has a final exclusion, "all other employees," and argues that the language of the recognition clause as a whole clearly defines the unit and specifically addresses the classifications at issue in the petition. Therefore, according to the Employer, the Union's failure to expressly reserve its right to seek a unit clarification regarding employees at future locations requires the dismissal of the petition.

The Employer also argues that the Union's bargaining strategy amounted to a waiver of its right to file a unit clarification petition. In particular, the Employer notes that in bargaining, the Union had attempted to expand the scope of the certified unit by proposing recognition language that would have included all of the Employer's existing locations, as well as new locations established by the Employer. The Employer then points out that the Union eventually abandoned that proposal and agreed to a collective bargaining agreement whose recognition provision explicitly excludes "all other employees" and makes reference to the Board's certification, which excluded "all other locations."

I note that the *Edison Salt* line of cases relied on by the Employer involves disputes over particular job classifications, rather than disputes regarding employees who may be performing unit work at unknown future facilities. Analogous new facility issues have, however, been addressed by the Board in accretion cases such as *Mohenis Services, Inc.*, 308 NLRB 326 (1992). In that unfair labor practice case, the Board had to decide whether employees working in a newly built facility could be accreted into an existing unit during the term of a collective bargaining

agreement covering the existing unit. The *Edison Salt* language was not used in *Mohenis*; rather, the Board agreed with the administrative law judge that the union had waived its right to an accretion because, during bargaining, the Employer had disclosed its plans regarding the facility that was to be built, and the Union then expressly agreed to limit the unit to the existing facility only. *Mohenis Services, Inc.*, Supra.<sup>6</sup>

Whether the *Edison Salt* language or the *Mohenis* language is applied in this case, the evidence does not warrant dismissal of the Union's petition. Unlike the unit description in the *Edison Salt* line of cases and the *Mohenis* case, the collective bargaining agreement in this case does not specifically address the disputed classifications. In fact, the unit description in the recognition clause is silent about future locations. Contrary to the Employer's claim, I also conclude that the reference to the Board certification in the recognition language does not mean that the parties incorporated the certification's unit language into the collective bargaining agreement and thus that the parties addressed the future facilities issue. Although the recognition clause states that the Employer recognizes the Union pursuant to the Board's certification in Case 32-RC-4504, the recognition clause does not state that the certification in its entirety is incorporated by reference. Of even greater significance is the fact that the recognition clause includes its own detailed unit description, and its own specific exclusions to the unit. Among the exclusions, there is no language excluding "employees at other locations," as there is in the Board's certification. As the collective bargaining agreement sets forth a complete and detailed unit description, I conclude that the unit description in the collective bargaining agreement language supersedes the unit description in the certification.

Even if the "employees at other locations" exclusion had been incorporated into the collective bargaining agreement, that would not in and of itself establish that the parties intended to exclude all future locations and thus had dealt with the disputed classifications that are the subject of the unit clarification petition. In situations like this where a union represents employees at most, but not all, of a cluster of employer facilities, an exclusion of "employees at other locations" would, on its face, relate only to the other existing facilities, it would not inherently encompass facilities that were not yet in existence. Similarly, I interpret the exclusion all other employees" to mean all other current employees, as opposed to employees who may be employed at some new facility in the future. As I have concluded that the collective bargaining agreement language does not specifically deal with the disputed classification, it is immaterial whether the Union did or did not expressly reserve a right to file a unit clarification petition.

I also conclude that the Union did not waive its right to seek a unit clarification, by reaching agreement on a collective bargaining agreement with a recognition clause that listed only three locations, or by its concessions during the bargaining. In so doing, I start from the bedrock proposition that any waiver of statutory rights must be clear and unmistakable. *Metropolitan Edison Co. v. NLRB*, 460 U.S. 693 (1983); *Owens-Brockway Plastic Products*, 311 NLRB 519 (1993). . Moreover, waivers of statutory rights may be evidenced by bargaining history, but only if the matter at issue has been fully discussed and consciously explored during negotiations and the union has consciously or clearly and unmistakably yielded its interest in the

---

<sup>6</sup> I also note that in another accretion case, it was concluded that there was no waiver even though the union did possess knowledge of an employer's intent to construct a new facility. In that case, as here, there was no discussion of the new facility at the bargaining table and the new positions at the new facility did not come into existence until after agreement on the collective bargaining agreement had been reached. See *Mercy Health Services North*, 311 NLRB 367, 370 (1993).

matter. *Ohio Power Co.*, 317 NLRB 135, 135 (1995); *Reece Corp.*, 294 NLRB 448, 451 (1989). Thus, I note that in *Mohenis*, there was a clear waiver because the union, after being informed of the employer's plans for a new facility, agreed to unit limited to the existing facility only. In this case, however, there is no record evidence indicating that at the time of the bargaining, the Employer had informed the Union that it was building the CCSR and that the Employer would be using its employees to perform maintenance work there. Moreover, the Union's changes in its bargaining proposals regarding the recognition language do not establish a waiver. Not only did the Union not have the requisite notice regarding the CCSR when it withdrew its proposal, the record evidence does not establish what, if anything was said by the parties regarding the scope of the unit, the parties' reasons for modifying their unit scope proposals, or what concessions the Union may have received for withdrawing its proposals. In addition, a closer look at the Union's proposal shows that it involved more than a mere attempt to expand the existing unit. The Union's proposal stated that "[t]his recognition shall extend to all employees who are employed at the Employer's existing and future facilities, to the extent permitted by law." Thus, it appears that the Union was seeking an agreement that would require the Employer to waive its right to a Board election at future facilities, and instead to be required to use a card count to determine majority status, pursuant to the Board's decision in *Houston Division of Kroger*, 219 NLRB 388 (1975) and its progeny. Although withdrawing the future facilities language may show that the Union was giving up its attempt to secure a *Kroger* clause waiver from the Employer, it does not establish that the Union was clearly and unmistakably waiving its right to file a unit clarification petition concerning a future facility that the Employer had failed to even mention to the Union.

Adding further to the confused state of the parties' intentions during bargaining is the Employer's decision to withdraw that portion of its proposed unit description that excluded "all other locations." An even greater stumbling block to applying a waiver in this case is that despite agreeing to the recognition clause unit, which specified three facilities as being in the unit, the parties thereafter greatly expanded the scope of the unit by applying the collective bargaining agreement to the other Employer facilities where the Employer employed housekeeping employees. Given the multiple unit descriptions noted above, the lack of details regarding the bargaining, the Union's lack of knowledge regarding the CCSR and the significant expansion of the unit after agreement on the collective bargaining agreement, I reject the Employer's claim that the unit description found in the collective bargaining agreement constitutes a clear geographical limitation rather than a mere descriptive recitation of the physical location of the facilities at the time of the negotiations. See *Los Angeles Marine Hardware Co. v. NLRB*, 602 F.2d 1302, 1306-1307 (9th Cir. 1979); cf. *King Soopers, Inc.*, 332 NLRB No. 5 (2000) (listing of employer's address in Board certification not evidence of waiver of union's right of representation if facility moves or changes address); *Westwood Import Co.*, 251 NLRB 1213 (1980), *enf'd*, 681 F.2d 664 (9th Cir. 1982).<sup>7</sup> For all of these reasons, I

---

<sup>7</sup> I also note that the Board will honor a geographic limitation clause in which a union waives employees' rights to continued representation at a new facility as long as there is no evidence that the employer has secured the waiver by taking any action to mislead the union or keep the union uninformed. *King Soopers, Inc.*, 332 NLRB No. 5 (2000); *Waymouth Farms*, 324 NLRB 960 (1997). While the extent of obfuscation in the present case does not rise to the level of that found in *Waymouth Farms*, the Employer's above described conduct militates against any conclusion that the union clearly and knowingly waived its right to petition for a unit clarification petition with regard to a newly planned facility that the Employer had failed to mention to the Union.

conclude that the Petitioner has not waived its right to file a unit clarification petition, and the petition must be considered on its merits.

Turning to the merits of the petition, the Board has followed a restrictive policy in finding accretions to existing units, because employees accreted to such units are not accorded a self-determination election, and the Board seeks to insure the employees' rights to determine their own bargaining representative. See *Compact Video Services*, 284 NLRB 117, 119 (1987). Further, "[i]t is well settled that the doctrine of accretion will not be applied where the employee group sought to be added to an established bargaining unit is so composed that it may separately constitute an appropriate bargaining unit." *Hershey Foods Corp.*, 208 NLRB 452, 458 (1974).

The Board has also consistently held that a single facility unit geographically separated from other facilities operated by the same employer is presumptively appropriate, even though a broader unit might also be appropriate. See *Passavant Retirement and Health Center, Inc.*, 313 NLRB 1216, 1218 (1994); *Gitano Group, Inc.*, 308 NLRB 1172 (1992); *Manor Healthcare Corp.*, 285 NLRB 224, 225 (1987). This presumption may be rebutted by a showing that the additional employees have little or no separate group identity and thus cannot be considered to be a separate appropriate unit, and that the additional employees share an overwhelming community of interest with the preexisting unit to which they are accreted. See *Safeway Stores, Inc.*, 256 NLRB 918 (1981).<sup>8</sup>

In determining whether the presumption has been rebutted, the Board examines such factors as central control over daily operations and labor relations, including the extent of local autonomy; similarity of employee skills, functions, and working conditions; degree of employee interchange; common supervision; distance between locations; and bargaining history. See *Mercy Health Services*, 311 NLRB 367 (1993). The Board has identified the degree of interchange and separate supervision as particularly important factors in determining whether an accretion is warranted. See *Towne Ford Sales*, 270 NLRB 311, 311-312 (1984), *aff'd sub nom., Machinists Local 1414 v. NLRB*, 759 F.2d 1477 (9th Cir. 1985); *Passavant Retirement and Health Center, Inc.*, 313 NLRB 1216, 1218 (1994).

I note that of the eleven persons currently performing housekeeping services at the CCSR who the Petitioner seeks to be accreted to the unit, ten of them transferred from other buildings at which the Employer provided housekeeping services and had been part of the bargaining unit.<sup>9</sup>

---

<sup>8</sup> As a preliminary matter, I reject the Employer's argument that Petitioner is estopped from seeking to rebut the presumption. The Employer offers no cases in support of its argument, an argument which I find does not markedly differ from the Employer's position with respect to waiver as discussed above. That the Petitioner did not initially seek to represent employees at every conceivable Stanford Hospital location at the time it originally filed a representation petition in 1998 does not constitute an admission that each location Petitioner declined to include thereby constitutes a separate appropriate unit. Further, I find that the Employer's estoppel argument, like its waiver argument, is substantially undermined by its treatment of persons as covered by the collective bargaining agreement while simultaneously maintaining that the unit description in the collective bargaining agreement excludes the locations at which such persons perform their work.

<sup>9</sup> I note that the Board does not accord controlling weight to permanent transfers of unit members to new facilities. See *Passavant, supra*, 313 NLRB at 1218 n.2; *Renzetti's Market*, 238 NLRB 174, 175 n.8 (1978)

Newly hired CCSR and unit employees are all trained at a common training site in the housekeeping office before going to their regular building for site specific training with their lead-person. It is unclear how long the newly hired employees remain at the common training site. Unit employees are assigned to provide services at particular locations and, other than some housekeeping specialists, do not regularly perform services at other locations. The CCSR employees start and end their day at the Stanford Hospital facility where they punch in and punch out on the hospital time clock.<sup>10</sup> Unit employees from the Stanford Hospital and from other sites also punch in and punch out on this time clock. Some of these unit and CCSR employees work the same hours. Employees assigned to work at the CCSR do not regularly come into contact with employees working at other locations, other than at the time clock. Only on rare occasions do employees from the CCSR eat lunch in the hospital cafeteria or on the hospital grounds, along with unit employees.

CCSR lead-person Johnny Dumlao regularly goes to the Stanford Hospital to pick up cleaning supplies for the CCSR. Also, about six months ago, for one week, Dumlao apparently served as a lead person for some unit employees located at other facilities, in addition to his CCSR duties. This temporary assignment was necessary because the regular lead-persons for those facilities were absent from work. Shortly before the hearing in this case, Dumlao spent about an hour or two per day for an unspecified period doing some assignments normally performed by one of the housekeeping supervisors. It is unclear how often, if ever, Mr. Dumlao came into contact with unit employees while performing these extra duties.

---

<sup>10</sup> The CCSR employees may also punch in and out at the time clock at the Hoover Pavilion, which is also used by unit employees.

The record evidence does not establish that the CCSR employees are separately supervised. Karl Hicketier is the director of the maintenance department. Below him are two operations managers, John Hayes and Ann Marie Souza. Souza, who works the day shift, is responsible for the maintenance employees at the Children's Hospital, and Hayes, who works the evening shift, is responsible for the School of Medicine buildings. Billy Joe Payne is a senior supervisor, and during the day shift, he is responsible for the all maintenance department employees other than those at the Children's Hospital. Leo Villegas is a supervisor on the day shift, and he is responsible for the Blake Wilbur building, the Boswell Building and the CCSR. The evening supervisors are Ambrocio Chavez, Patrick Pete, Daniel Hernandez and Bernice Whiteside. Patrick Pete is responsible for the School of Medicine building and for the employees assigned in the Stanford Hospital area. Daniel Hernandez is responsible for the Hoover Pavilion and the psychiatric building. Bernice Whiteside is responsible for Children's Hospital. The next level of authority is composed of the lead-persons. The record evidence shows that the parties, after considering their supervisory status, agreed to place the lead-persons in the unit. There is no evidence regarding the authority of the lead persons or the supervisors listed above.

As a lead person/housekeeping specialist, Johnny Dumlao is the highest ranking maintenance person at the CCSR. While there is some evidence that Mr. Dumlao directs certain housekeeping work performed at the CCSR and that he played some role in determining which employees were transferred to the CCSR, the evidence falls short of demonstrating that Mr. Dumlao constituted a supervisor within the meaning of Section 2(11) of the Act.<sup>11</sup> Rather, the

---

<sup>11</sup> The record includes some evidence that transfers are decided by the housekeeping office personnel; however, there is also some unclear, conclusionary evidence that either a supervisor and Mr. Dumlao, or possibly just Mr. Dumlao, made the decision as to which employees would be transferred to the CCSR.

evidence establishes that supervisors in the housekeeping department hold employee meetings at each facility, direct, oversee and evaluate the work of the employees at the CCSR. The record evidence also indicates that hiring, disciplining, firing, time off requests and vacations requests for the unit employees and the maintenance employees at the CCSR are decided by personnel in the housekeeping office, not by the lead-persons in the respective buildings. In light of the evidence as a whole, I conclude that the CCSR employees are not separately supervised.<sup>12</sup>

I find that the similarity of employee skills, functions and working conditions are also a factor strongly favoring accretion here. CCSR housekeeping employee Norberto Jose testified without contradiction that the work he performs in his position at the CCSR is identical to that which he performed as a unit member working at the Grant a/k/a Science Building prior to assuming his position in the CCSR. Mr. Jose uses the same types of equipment and supplies he previously used, wears the same Employer-provided uniform he wore prior to starting work at the CCSR, works the same shifts and hours he worked prior to joining the CCSR, and receives the same pay and benefits he received prior to working at the CCSR. The Employer made no showing that working at CCSR requires any different or greater skills or duties than are required to work at the Employer's other facilities.

With respect to the distance between locations factor, the undisputed testimony was that the approximate distance between the CCSR and Stanford Hospital and between the CCSR and the Edwards building is about 300-400 feet. The CCSR is about 500 feet from the Beckman building. Unit employees perform the maintenance duties at the Stanford Hospital and at the

---

<sup>12</sup> In the course of finding no common upper-level supervision in *Passavant*, the Board relied heavily upon the indicia of supervisory status as to the lower level supervisor (Scholle) in charge of the allegedly separate facility. Scholle was expressly found to have power to hire, evaluate, and discipline, without review or possible reversal by upper level managers. 313 NLRB at 1219. Here, by contrast, the Employer failed to make any comparable showing with respect to Mr. Dumlao's authority.

Edwards and Beckman sites. Under *Passavant*, 313 NLRB at 1219, I find the close proximity of the CCSR to several unit facilities to be a further factor favoring accretion.

As to the bargaining history factor, the disparity between the unit description in the collective bargaining agreement and the scope of the that has been established through the practice of the parties since 1999, somewhat clouds the issue. However, there are well over 20 buildings that are considered part of the Stanford Hospital, the Lucile Packard Children's Hospital and the Stanford Medical School complex and that have maintenance work that is performed by the Employer's employees. The record evidence also indicates that, other than the maintenance employees at the CCSR, all of the Employer's employees performing maintenance work have been covered by the collective bargaining agreement since 1999 and are part of the unit.<sup>13</sup> There is also no evidence showing that there are employees working at the CCSR, other than the maintenance employees who work in classifications covered by the collective bargaining agreement and who are not covered by the unit clarification petition.

Applying all of the above factors, I conclude that Petitioner has rebutted the single facility presumption, and that the employees sought to be accreted have an overwhelming community of interest with the employees in the existing unit. Accordingly, I will clarify the unit to include all full-time, regular part-time and relief employees in the classifications of Senior Housekeeping Assistant, Senior Housekeeping Specialist, Housekeeping Aide, Housekeeping Assistant, Housekeeping Specialist and/or Lead Housekeeping Assistant assigned to the CCSR.

---

<sup>13</sup> With regard to whether the Employer has applied the collective bargaining agreement to all maintenance department employees who were allowed to vote in the Board election, I note that the Employer's counsel would characterize the Employer's position as "deciding to forebear voluntarily from insisting that the contract not be applied to all of them." This position by the Employer is not inconsistent with the evidence that the Employer did expand the unit to cover all of the maintenance department employees and is insufficient to negate the other evidence in the record regarding the expansion of the unit.

IT IS HEREBY ORDERED that the unit exclusively represented for purposes of collective bargaining by Service Employees International Union, Local 715 (AFL-CIO, CLCM) be, and it hereby is, clarified by specifically including all full-time, regular part-time and relief employees in the classifications of Senior Housekeeping Assistant, Senior Housekeeping Specialist, Housekeeping Aide, Housekeeping Assistant, Housekeeping Specialist and/or Lead Housekeeping Assistant assigned to the CCSR.

### **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 Fourteenth Street, NW, Washington, DC 20570. This request must be received by the Board in Washington by **March 20, 2001**.

**DATED** at Oakland, California this 6<sup>th</sup> day of March, 2001.

/s/ James S. Scott  
James S. Scott, Regional Director  
National Labor Relations Board – Region 32  
Oakland Federal Building  
1301 Clay Street - Suite 300N  
Oakland, California 94612-5211

385-7501-2501  
385-7533-4000  
385-7533-4040  
775-3700