

BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD

FOR THE STATE OF KANSAS

In the Matter of the Petition
filed by the SERVICE EMPLOYEES
UNION, Local 1513, for Unit
Certification of certain employees
of the City of Coffeyville Hospital Case No. 75-UDC-1-1984

O R D E R

Now on this 16th day of July, 1984, the above-entitled matter comes on before the Board.

The following members of the Board are present: JAMES J. MANGAN, LOUISA FLETCHER and LEE RUGGLES, constituting a quorum. ART VEACH, member of the Board, was present but took no part in the proceedings for the reason that he is the representative and person filing the Petition on the part of the Service Employees Union. Member ROBERT KENNEDY was absent.

Respondent, THE CITY OF COFFEYVILLE, KANSAS, was present by WOODY SMITH, City Attorney of the City of Coffeyville. Intervenor, COFFEYVILLE MEMORIAL HOSPITAL was present by ARTHUR E. PALMER, Attorney at Law.

Thereupon, Mr. Palmer and Mr. Smith individually argued their causes and the matter was submitted to the Board.

Thereupon, the Board, constituting James J. Mangan, Louisa Fletcher and Lee Ruggles, went into executive session to deliberate the matter.

Thereupon, after due deliberation in executive session the hearing was resumed as an open hearing.

Thereupon, James J. Mangan moved that the Board find that the Board of Trustees of Coffeyville Memorial Hospital constitutes the governing body under the Public Employee Relations Act, and that it be so ordered. Louisa Fletcher seconded the motion. It was submitted to the Board, and the three members involved voted unanimously in favor of the motion.

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The Board further makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Pursuant to K.S.A. 13-14b01, the governing body of the City of Coffeyville, Kansas, established and built a hospital.
2. Thereafter, the City of Coffeyville provided for the management, authority and control of said hospital by a Board of Trustees under the provisions of K.S.A. 13-14b09. The Board of Trustees is in existence at this time. An appropriate Ordinance was passed by the City as a part of this procedure.
3. By Ordinance dated February 7, 1984, the City of Coffeyville elected to come under the Public Employee Relations Act.
4. The Board of Trustees of the hospital has not elected to come under the Act.
5. On the 15th day of March, 1984, Service Employees Union, Local 513, filed its Petition in this matter, praying the Board for a unit determination order relative to certain employees of the hospital.
6. On March 21, 1984, the City of Coffeyville filed its Answer to said Petition, in which it denied that the proposed unit was appropriate and the number of employees in the unit.
7. On March 26, 1984, the Board of Trustees of the hospital filed its Motion alleging that the Board of Trustees of the hospital is the governing body of the hospital under the Act and requested that the Board allow it to file a proposed Answer to the Petition. Attached to this Motion was a proposed Answer which, if allowed and filed, would ask that the Petition be dismissed for lack of jurisdiction or, in the alternative, to find the proposed unit inappropriate and to deny certification.
8. Under the facts of this matter if the Board of Trustees of the hospital was not allowed to intervene and this Board issued an

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order based upon the Petition and Answer of the Respondent, it would present a situation of possible future confrontation and controversy. Therefore, the Board of Trustees of the hospital should be allowed to intervene in this matter.

CONCLUSIONS OF LAW

1. The only issue presented to the Board is the issue of intervention. If the Board rules that the Board of Trustees is the governing body, then it has no jurisdiction or authority to allow the Board of Trustees to file an answer to the Petition for the simple reason that the Board of Trustees at this time has not elected to come under the Act. Before the Board can allow the Board of Trustees to file the proposed Answer relative to the question of the proposed unit's being appropriate the Board of Trustees must first elect to come under the Act.

2. K.S.A. 75-4322 defines "governing body" as follows:

- (g) "Governing Body" means the legislative body, policy board or other authority of the public employer possessing legislative or policy-making responsibilities pursuant to the Constitution or Laws of this State.

Chapter 13, Article 14b of the Kansas Statutes grants authority to the governing body of a city of the first class to fund and build a hospital. After this is accomplished the city has two options. It may provide for the management, authority and control of the hospital by the Board of Trustees or it may lease the hospital to others upon such terms and conditions as the governing body of the city deems in the best interest of the city. (K.S.A. 13-14b02.) In this particular situation the city opted for the Board of Trustees method. In such an event under the provisions of 13-14b09, the management and control of the hospital is vested in the Board of Trustees. Under 13-14b10, the Trustees elect a chairman and other officers as they deem necessary. They must appoint a treasurer and all funds collected for the maintenance and operation of the hospital is placed in the custody of the treasurer. Under 13-14b11, the

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Board of Trustees has exclusive control of the management and operation of the hospital and must make and adopt rules and regulations for the government of the hospital as may be deemed expedient for the economical and proper conduct thereof. In fact, under 13-14b12, the city shall levy annually a tax on all tangible taxable property within the limits of the city for the purpose of equipping, operating, maintaining and improving the hospital.

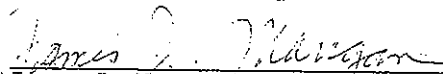
So, it is apparent that after the city builds a hospital and goes the Board of Trustees route it has absolutely no management and control over the functioning of the hospital. Therefore, under no circumstances, under such a situation could it be considered the "governing body" possessing policy-making responsibilities pursuant to the laws of this State. The Board of Trustees is the "governing body".

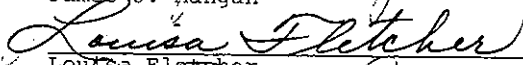
IT IS THEREFORE ORDERED AS FOLLOWS:

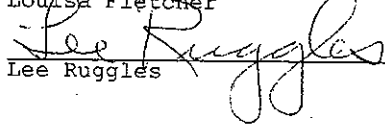
1. The Board of Trustees of the hospital is hereby allowed to intervene.

2. Said Board of Trustees is herewith granted thirty (30) days from July 16, 1984, within which to elect to come under the Public Employee Relations Act. If it does not do so within such period of time, then as of August 16, 1984, the Petition filed herein shall be automatically dismissed for lack of jurisdiction.

3. The above order shall be effective July 16, 1984.


James J. Mangan


Louisa Fletcher


Lee Ruggles

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