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EMPLOYEE RELATIONS BOARD

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EMPLOYMEE RELATIONS BOARD

ENGINEERS AND ARCHITECTS  
ASSOCIATION,

*Claimant,*

UERP #1707

vs.

EMPLOYER'S RESPONSE TO UERP  
#1707

LOS ANGELES WORLD AIRPORTS

*Respondent,*

**TO CLAIMANT AND ITS ATTORNEY OF RECORD:**

**EMPLOYER, CITY OF LOS ANGELES**, Department of Airports, commonly referred to as Los Angeles World Airports ("LAWA"), hereby responds to CLAIMANT'S UNFAIR EMPLOYEE RELATIONS PRACTICE CLAIM AGAINST MANAGEMENT and admits, denies and alleges as follows:

Pursuant to Employee Relations Board ("ERB") Rule 8.01, the parties met together on or about October 28, 2008 concerning UERP No. 1707. The parties were unable to resolve the outstanding issues. On behalf of the City of Los Angeles, LAWA denies that it has committed any alleged unfair employee relations practice.

I. INTRODUCTION

In this Claim, the Engineers and Architects Association ("EAA" or "Claimant") claims that LAWA has violated § 4.860A (1)/(3) of the Employee Relations Ordinance. EAA brings this unfair on behalf of an employee in LAWA's IT Division, Daniel Malmuth, an lists two isolated and unrelated incidents in its charge of purported violations of the ERO.

The essence of all of these two isolated and unrelated allegations is that LAWA has changed the working conditions of Mr. Malmuth by treating by enforcing the City's long-standing rule that employees are not permitted to work through their lunch periods in order to leave work an half hour early, and that as a member of the EAA, he was encouraged to meet with representatives of SEIU 721 during paid work time when a Manager inappropriately assumed that SEIU representatives had secured permission to meet with IT employees.

The City of Los Angeles ("City") has at all times attempted to remain neutral regarding the organizing campaign being conducted by SEIU 721 among employees currently represented by EAA. The City has repeatedly instructed its managers that they are to remain neutral, and that any organizing activities must be conducted on personal time. However, individual supervisors are members of the units at issue in this campaign. Consequently, the City cannot forbid these individuals from exercising their own individual right to seek information or hold opinions.

In response to the specifics of EAA's claims, the City states as follows:

- 1. Los Angeles World Airports ("LAWA") denies that it ever granted SEIU 721 organizers permission to meet with employees in the building where IT employee, Dan Malmuth works, at 6151 Century Blvd, which is not on Airport property. This building is a rental building, which is owned and managed by the rental agency. LAWA has no ownership or control over access to the building, and only has employees on a few of the floors in the building. Security at this building is controlled by the rental agency, not by LAWA. LAWA has no knowledge about who may have provided SEIU representatives with access to the 6151 Century Blvd building, as the public is generally allowed to access this building and many entities are doing business at this location. Nonetheless, when SEIU representatives appeared on the floor where IT administrative employees are now assigned to work, Senior Management Analyst II, Sonja Mattingly mistakenly

1 assumed that SEIU had properly obtained permission from another manager to access the 6151  
2 Century Blvd building.

3 2. LAWA denies that its management has failed to maintain neutrality, as alleged by  
4 Claimant. Moreover, the non-neutrality allegation pertains to issues which would be properly  
5 adjudicated in a previously filed Unfair action, UERP No. 1700, and the EAA has ignored  
6 LAWA's request to consolidate that allegation with the UERP No. 1707.

7 3. LAWA denies that it has unilaterally changed the terms and conditions of  
8 employment for a bargaining unit employee without giving the Union notice or an opportunity to  
9 bargain. The Los Angeles Administrative Code § 4.113(a) specifically provides that: "*FLSA non-*  
10 *exempt employees may not work outside of scheduled working hours, or during unpaid meal*  
11 *periods, without the prior approval of a supervisor consistent with department policy.* Failure to  
12 secure prior approval may result in discipline. Working and not recording time is similarly  
13 prohibited." LA Admin. Code § 4.113(a)(emphasis added).

14 4. Admin. Code § 4.113(a) has been enforced by the City for many years, and is not a  
15 change in terms or conditions of employment. The mere fact that an isolated bargaining unit  
16 employee, who had historically not worked in the same building and/or work location as his  
17 supervisor, was able to unilaterally modify his schedule without detection does not give rise to an  
18 incident over which LAWA must bargain with the union. See *Claremont Police Officers*  
19 *Association v. City of Claremont*, 41 Cal.3d 623 (2006). Indeed the union knows that neither  
20 LAWA nor any other City Department can reach an agreement that violates the City's municipal  
21 or administrative code. Moreover, there is no evidence that EAA has ever sought to meet and  
22 confer over this rule at all, and to the contrary, LAWA management reasonably believed that any  
23 dispute about Mr. Malmuth's working schedule had been resolved through the informal meeting  
24 and grievance process.

25 5. Claimant has failed to exhaust administrative remedies under the applicable MOU  
26 #1, *Memorandum of Understanding regarding the Administrative Unit Between the City and*  
27 *Engineers & Architects Association* and has unilaterally abandoned appropriate review of the  
28 scheduling issues under the grievance resolution procedures agreed upon therein.

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II. CONCLUSION

For all the foregoing reasons, Respondent City submits that it has not committed an Unfair Employee Relations Practice and that this charge should be dismissed with prejudice.

Dated: November 12, 2008

OFFICE OF THE LOS ANGELES CITY ATTORNEY

By: *Patricia Almon Mor*

PATRICIA ALMON MOR, Deputy City Attorney  
D. JESSE GRAHAM, Law Clerk  
Representatives for, Los Angeles World Airport