

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
WASHINGTON, D.C. 20424

.....

VETERANS ADMINISTRATION, .
RIVERSIDE NATIONAL CEMETERY, .
RIVERSIDE, CALIFORNIA, .

Respondent .

and .

Case No. 8-CA-70436

AMERICAN FEDERATION OF .
GOVERNMENT EMPLOYEES, .
INTERDEPARTMENTAL, .
LOCAL 3854, AFL-CIO .

Charging Party .

.....

Cathy R. Levitt, Esquire
For the Respondent

Kenneth P. Russell, Esquire
For the General Counsel

Before: WILLIAM NAIMARK
Administrative Law Judge

DECISION

Statement of the Case

This case arises under the Federal Service Labor-
Management Relations Statute 5 U.S.C. 7101 et seq. (herein
called the Statute). Pursuant to a first amended charge
filed by American Federation of Government Employees,
Interdepartmental, Local 3854, AFL-CIO (herein called the
Union), a Complaint and Notice of Hearing was issued on
June 22, 1987 by the Regional Director, Region VIII, Federal
Labor Relations Authority against Veterans Administration,
Riverside National Cemetery, Riverside, California (herein
called Respondent).

The Complaint alleged, in substance, that Respondent violated Section 7116(a)(1), (5) and (8) of the Statute by failing and refusing to provide the Union, upon request, with the names and home addresses of bargaining unit employees represented by the Union as required by Section 7114(b)(4) of the Statute.

Respondent's Answer, which was duly served on or about July 20, 1987, admitted as to the Complaint: (a) the jurisdictional allegations therein; (b) that by letter dated April 22, 1987, the Union, as the exclusive representative of an appropriate unit of Respondent's employees, requested the names and home addresses of bargaining unit employees; (c) that by letter dated April 28, 1987, Respondent denied the Union's request for the information; (d) that the names and home addresses so requested are normally maintained by Respondent in the regular course of business; (e) that such information is reasonably available; (f) that such information does not constitute guidance, advice, counsel or training provided for management officials or supervisors relating to collective bargaining.

Respondent's Answer denied that the information requested is necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining.^{1/} It also denied that the said information is not prohibited by law. Further, the commission of any unfair labor practices was denied.

Under date of December 3, 1987, General Counsel filed a Motion For Summary Judgment together with a brief in support thereof.

In an order dated December 4, 1987, the Regional Director transferred the Motion to the Chief Administrative Law Judgment pursuant to Section 2423.22(b)(1) of the Authority's Regulations. The case was duly assigned to the undersigned for disposition.

Under date of December 7, 1987, Respondent submitted a memorandum in opposition to the Motion For Summary Judgment.

^{1/} In this regard Respondent averred that only conditions of employment may be the subject of negotiations; that names and addresses of employees are "extraneous" to the workplace; and that such data does not constitute policies, practices and matters affecting making conditions.

The contentions and arguments made by Respondent herein were raised, and considered by the Authority, in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986), enforced in part and remanded sub nom. U.S. Department of Agriculture and Farmers Home Administration Finance Office, St. Louis, Missouri v. FLRA, 836 F.2d 1139 (8th Cir. 1988). The Authority held that the names and home addresses must be furnished and their release is not prohibited by law. Further, that such data is necessary for unions to fulfill their representational duties under the Statute, and all requirements are met under 7114(b)(4) of the Statute. Its decision analyzed the two exceptions to the Privacy Act's bar to disclosure of personal information pertinent to the release of employees' names and home addresses: exception (b)(2), concerning the Freedom of Information Act; and exception (b)(3), relating to "routine use" of information. The Authority found that both exceptions applied so as to authorize release of the information under the Privacy Act.

Accordingly, it is concluded that Respondent's refusal to provide the Union with the names and home addresses violated Section 7116(a)(1), (5) and (8) of the Statute. See United States Department of the Navy and Philadelphia Naval Shipyard v. FLRA, 840 F.2d 1131 (3d Cir. 1988), enforcing Philadelphia Naval Shipyard, 24 FLRA 37 (1986); U.S. Department of the Air Force, Scott Air Force Base, Illinois v. FLRA, 838 F.2d 229 (7th Cir. 1988), affirming Department of the Air Force, Scott Air Force Base, Illinois v. FLRA, 24 FLRA 226 (1986); Department of Health and Human Services, Social Security Administration v. FLRA, 833 F.2d 1129 (4th Cir. 1987), affirming Department of Health and Human Services, Social Security Administration, 24 FLRA 543 (1986); Department of Health and Human Services, Social Security Administration, and Social Security Administration Field Operations, New York Region, 24 FLRA 583 (1986); Department of Health and Human Services, Social Security Administration, 24 FLRA 600 (1986).

Based on the foregoing, the General Counsel's Motion For Summary Judgment is granted. It is recommended that the Authority issue the following:

ORDER

Pursuant to section 2423.29 of the Authority's Rules and Regulations and section 7118 of the Federal Labor-Management Relations Statute, the Veterans Administration, Riverside National Cemetery, Riverside, California, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the American Federation of Government Employees, Interdepartmental, Local 3854, AFL-CIO, the exclusive representative of certain of its employees, the names and home addresses of all employees in the bargaining units it represents.

(b) In any like or related manner, interfering with, restraining or coercing its employees in the exercise of their rights assured them by the Federal Service Labor-Management Relations Statute.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Relations Statute:

(a) Furnish the American Federation of Government Employees, Interdepartmental, Local 3854, AFL-CIO, the names and home addresses of all employees in the bargaining units it represents.

(b) Post at its facilities where bargaining unit employees represented by the American Federation of Government Employees, Interdepartmental Local 3854, AFL-CIO, are located, copies of the attached Notice on forms to be furnished by the Federal Labor Relations Authority. Upon receipt of such forms they shall be signed by the Director of the Veterans Administration, Riverside National Cemetery, Riverside, California, and shall be posted and maintained for 60 consecutive days thereafter in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that such Notices are not altered, defaced, or covered by any other material.

(c) Pursuant to section 2423.30 of the Authority's Rules and Regulations, notify the Regional Director, Region VIII, Federal Labor Relations Authority, 350 South Figueroa Street, 3rd Floor, Room 370, Los Angeles, California 90071, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply.

Issued, Washington, D.C., August 15, 1988.


WILLIAM NAIMARK
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

AS ORDER BY THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF
FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to furnish, upon request of the American Federation of Government Employees, Interdepartmental Local 3854, AFL-CIO, the exclusive representative of certain of our employees, the names and home addresses of all employee in the bargaining units it represents.

WE WILL NOT in any like or related manner, interfere with, restrain, or coerce our employees in the exercise of the rights assured them by the Federal Service Labor-Management Relations Statute.

WE WILL, furnish the American Federation of Government Employees, Interdepartmental Local 3854, AFL-CIO, the names and home addresses of all employees in the bargaining units it represents.

(Agency or Activity)

Dated: _____ By: _____
(Signature)

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provisions, they may communicate directly with the Regional Director of the Federal Labor Relations Authority, Region VIII, whose address is: 350 South Figueroa Street, 3rd Floor, Room 370, Los Angeles, California 90071, and whose telephone number is: (213) 798-3805.