

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

.....

VETERANS ADMINISTRATION, .  
WASHINGTON, D.C. .

Respondent Agency .

and .

VETERANS ADMINISTRATION .  
MEDICAL CENTER, .  
DENVER, COLORADO .

Respondent Activity .

and .

AMERICAN FEDERATION OF .  
GOVERNMENT EMPLOYEES, .  
AFL-CIO, LOCAL 2241 .

Charging Party .

.....

Case No. 7-CA-80500

Hazel E. Hanley, Esquire  
For the General Counsel, FLRA

Douglas D. Doane, Esquire  
For the Respondents

Before: JESSE ETELSON  
Administrative Law Judge

DECISION

Statement of the Case

The unfair labor practice complaint alleges, in substance, that Respondents violated section 7116(a)(1), (5) and (8) of the Federal Service Labor-Management Relations Statute (the Statute), by refusing to provide the Charging Party (Union), the agent of the exclusive representative of certain of Respondents' employees, with the names and home addresses of bargaining unit employees represented by the Union.

On or about August 16, 1988, Counsel for the General Counsel moved for summary judgment. The Regional Director transferred the motion to the Chief Administrative Law Judge, pursuant to section 2423.22(b)(1) of the Regulations, and it was assigned to the undersigned for disposition pursuant to section 2423.19(k) and section 2423.22(b)(3) of the Regulations. Respondents served their opposition on September 1, 1988 requesting that judgment be granted in their favor.

Based upon the entire record, and it appearing that there are no genuine issues of material fact and that the General Counsel is entitled to summary judgment as a matter of law, I make the following findings of fact, conclusions of law, and recommendations.

#### Findings of Fact

The American Federation of Government Employees, AFL-CIO (AFGE) is the exclusive representative of nationwide units of certain of the Respondents' employees. AFGE Local 2241, the Union in this case, is the representative of AFGE for the purpose of representing unit employees at Respondents' hospital in Denver, Colorado. On or about May 4, 1988 and May 12, 1988, the Union requested that an agent of Respondents provide it with the names and home addresses of all bargaining unit employees represented by the Union. On or about May 9, 1988, and at all times since, Respondents have refused to furnish the Union with the requested information.

The names and home addresses of bargaining unit employees are normally maintained by Respondents in the regular course of business, are reasonably available, are necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining, and do not constitute guidance, advice, counsel, or training for management officials or supervisors relating to collective bargaining.

#### Discussion, Conclusions, and Recommendations

The decision in this case is controlled by the Authority's decision in Farmers Home Administration Finance Office, St. Louis, Missouri, 23 FLRA 788 (1986) (Farmers Home), 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). In Farmers Home the Authority held that "the statutory requirement concerning sufficiency of a request

under section 7114(b)(4) is satisfied for requests such as that involved here [for names and home addresses] when a general written request for the information is made. A precise explication of the reasons for the request involved here is not necessary." The Authority also emphasized that names and home addresses of bargaining unit employees should be provided whether or not alternative means of communication are available. The Authority stated, "We will not review the adequacy of alternative methods of communication on a case-by-case basis."

In Farmers Home, the Authority gave full consideration to the many issues raised by requiring disclosure of names and home addresses of federal employees. The Authority analyzed the interplay of the Statute, the Privacy Act, and the Freedom of Information Act, and concluded that, "the release of names and home addresses to the Union is not prohibited by law, is necessary for the Union to fulfill its duties under the Statute, and meets the other requirements of section 7114(b)(4)." The Authority's decision in Farmers Home 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 to the Privacy Act's bar applied so as to authorize release of the information under the Privacy Act.

The Respondents raise no arguments that differ in substance from those raised and rejected in Farmers Home and the legion of cases that have followed it. In fact, the gist of the Respondents' opposition to the motion for summary judgment is that the Farmers Home line of cases is erroneous and should be overruled. For the purpose of setting forth their points in detail, the Respondents have adopted as the main part of their submission the brief filed on behalf of the Farmers Home Administration Finance Office (the respondent in the lead case before the Authority) seeking reversal of the Authority's decision in the United States Court of Appeals for the Eighth Circuit. To the extent that the Eighth Circuit enforced the Authority's order, there is, needless to say, no point in my entertaining arguments to the contrary. To the extent that the Eighth Circuit limited enforcement of the Authority's order -- by requiring disclosure of the names and addresses of only those employees who do not request their employers to keep the information confidential -- the Authority has now spoken in response to that limitation. The Authority has rejected an employing activity's request that it adopt the Eighth

Circuit's limitation and has ordered the activity to provide the information as requested. Department of the Navy, Naval Plant Representative Office, Sikorsky Aircraft (Stratford, CT), 32 FLRA 675 (1988). I shall do likewise.

Consistent with the Authority's decision in Farmers Home, Respondents were required to furnish the Union with the names and home addresses of the employees in the bargaining unit it represents. Their refusal to do so violated section 7116(a)(1), (5) and (8) of the Statute. See also United States Department of the Navy and Philadelphia Naval Shipyard v. FLRA, 840 F.2d 1131 (3rd 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, 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); Veterans Administration, Washington, D.C. and Dallas Veterans Administration Medical Center, Dallas, Texas, 31 FLRA 740 (1988).

Based on the foregoing findings and conclusions, the General Counsel's motion for summary judgment is granted. It is recommended that the Authority issue the following Order:

#### ORDER

Pursuant to section 2423.29 of the Authority's Rules and Regulations and section 7118 of the Statute, the Veterans Administration, Washington, D.C. and Veterans Administration Medical Center, Denver, Colorado, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of the American Federation of Government Employees, Local 2241, the designated agent of the exclusive representative for certain of their employees, the names and home addresses of all employees in the bargaining unit it represents.

(b) In any like or related manner interfering with, restraining or coercing employees in the exercise of their rights assured 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, Local 2241, the designated agent of the exclusive representative for certain of their employees, with the names and home addresses of all employees in the bargaining unit it represents.

(b) Post at their hospital in Denver, Colorado, 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 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 insure 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 VII, Federal Labor Relations Authority, Denver, Colorado, in writing, within 30 days from the date of this Order, as to what steps have been taken to comply herewith.

Issued, Washington, D.C., October 3, 1988.

  
\_\_\_\_\_  
JESSE ETELSON  
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A DECISION AND ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

AND IN ORDER TO EFFECTUATE THE POLICIES OF

CHAPTER 71 OF TITLE 5 OF THE

UNITED STATES CODE

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, Local 2241, the designated agent of the exclusive representative for certain of our employees, the names and home addresses of all employees in the bargaining unit it represents.

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

WE WILL furnish the American Federation of Government Employees, Local 2241, the designated agent of the exclusive representative for certain of our employees, with the names and home addresses of all employees in the bargaining unit it represents.

\_\_\_\_\_  
(Activity)

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature) (Title)

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 VII, whose address is: 535 - 16th Street, Suite 310, Denver, Colorado, and whose telephone number is: (303) 844-5224.