

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

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SOCIAL SECURITY ADMINISTRATION.  
BOSTON REGION, BOSTON,  
MASSACHUSETTS

Respondent

and

Case No. 1-CA-90390

LOCAL 1164, AMERICAN  
FEDERATION OF GOVERNMENT  
EMPLOYEES, AFL-CIO

Charging Party  
.....

Richard M. Friedman, Esq.  
For the Respondent

Richard D. Zaiger, Esq.  
For the General Counsel

Before: WILLIAM NAIMARK  
Administrative Law Judge

DECISION

Statement of the Case

This case arose under the Federal Service Labor-Management Relations Statute, 5 U.S.C. Section 7101, et seq., (herein called the Statute). Pursuant to a charge filed on August 19, 1989 by Local 1164, American Federation of Government Employees, AFL-CIO (herein called the Union), a Complaint and Notice of Hearing was issued on October 22, 1990 by the Acting Regional Director for Region I, Federal Labor Relations Authority, against Social Security Administration, Boston Region, Boston, Massachusetts, (herein called the Respondent).

The Complaint alleged, in substance, that Respondent violated Section 7116(a)(1), (5) and (8) of the Statute by failing and refusing to furnish the Union, upon request, 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 Answers, which were duly served on October 31 and November 15, 1990, admitted as to the Complaint: (a) the jurisdictional allegations therein; (b) that on July 21, 1989 the Union, as the exclusive representative of an appropriate unit of Respondent's employees, requested the Respondent to furnish it with the names and home addresses of the bargaining unit employees represented by the Union; (c) that on July 28, 1990 Respondent refused to furnish the requested information to the Union; (d) the names and home addresses of the unit employees which were requested are normally maintained by the Respondent in the regular course of business; (e) that such information is reasonably available to Respondent; (f) that such information does not constitute guidance, advise, 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. Further, it denied that the information requested is not prohibited by law. The commission of any unfair labor practices was also denied.

Under date of November 14, 1990 General Counsel filed a Motion For Summary Judgment.

By order dated November 14, 1990 the Regional Director referred the Motion to the Chief Administrative Law Judge pursuant to Section 2423.22(b) of the Rules and Regulations. The case was duly assigned to the undersigned for disposition.

On November 28, 1990 Respondent filed both its Opposition To Motion For Summary Judgment and a Motion To Stay Proceedings. These motions have been duly considered.

Respondent contends that the case relied upon by the General Counsel in its Motion herein, U.S. Department of the Navy, Portsmouth Naval Shipyard, Portsmouth, New Hampshire, 37 FLRA 515, was wrongly decided. It maintains that the circuit court cases relied upon by the Authority in the cited case were decided before U.S. Department of Justice v. Reporters Committee for Freedom of the Press, 109 S. Ct. 1468 (1989); that the only circuit court case decided after Reporters Committee held that unions could not obtain home addresses of bargaining unit members under Section 7114(b)(4)

of the Statute. See FLRA v. Department of the Treasury, 884 F.2d 1446 (D.C. Cir. 1989) cert. denied 110 S. Ct. 863 (1990). Respondent adverts to the circuit court's holding that the FOIA did not require release of home addresses to unions; that the "routine use" test would allow disclosure only if there were not alternative means for the union to communicate with its unit members; and that the Privacy Act prohibited such release unless that routine use allowed disclosure.

The exact issue herein was considered in detail 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 that 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 Section 7114(b)(4) of the Statute. The decision analyzed the two exceptions to the Privacy Act's bar to disclosure of personal information pertinent to the release of employee's 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.

Note is also taken that in the Portsmouth case, supra, the Authority concluded that the Reporters Committee case is inapposite to the issue herein where the request arises under a disclosure provision of the Statute, a law other than the FOIA itself. The Authority found a critical distinction between that case and Reporters Committee since the latter arose under the FOIA. Further, that the public interest in the Portsmouth case outweighs the relatively minor privacy interest in releasing the employees' names and home addresses. Respondent maintains that disclosure might be compelled only where no adequate alternative means exists to communicate with employees; that the existence of such means is an issue of material fact warranting the denial of summary judgment. That contention was treated by the Authority in the cited case, along with other contentions made by Respondent.

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 (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); 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 Federal Labor Relations Authority's Rules and Regulations and Section 7118 of the Statute, it is hereby ordered that Social Security Administration, Boston Region, Boston, Massachusetts, shall:

1. Cease and desist from:

(a) Refusing to furnish, upon request of Local 1164, American Federation of Government Employees, AFL-CIO, the exclusive representative of an appropriate unit of its employees, the names and home addresses of all employees in the bargaining unit it represents.

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\*/ Respondent has moved to stay proceedings in this case pending conclusive resolution of the issue herein by the courts. It adverts to the fact that the said issue is already before the First Circuit in the Portsmouth case, supra, and thus another petition for enforcement would be redundant. The undersigned feels compelled to follow the case holdings by the Authority in respect to the issue at hand. A stay of proceedings does not appear warranted at this stage. The Motion to Stay Proceedings is hereby denied.

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

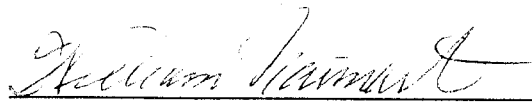
2. Take the following affirmative action in order to effectuate the purposes and policies of the Federal Service Labor-Management Statute:

(a) Furnish Local 1164, American Federation of Government Employees, AFL-CIO, the exclusive representative of an appropriate unit of its employees, the names and home addresses of all employees in the bargaining unit it represents.

(b) Post at its facilities where bargaining unit employees represented by Local 1164, American Federation of Government Employees, 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 Regional Director, Social Security Administration, Boston Region, Boston, Massachusetts, 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 I, Federal Labor Relations Authority, 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., December 21, 1990.

  
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WILLIAM NAIMARK  
Administrative Law Judge

NOTICE TO ALL EMPLOYEES

AS ORDERED BY THE FEDERAL LABOR RELATIONS AUTHORITY  
AND TO EFFECTUATE THE POLICIES OF THE  
FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE

WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT refuse to furnish, upon request of Local 1164, American Federation of Government Employees, AFL-CIO, the exclusive representative of an appropriate unit 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 Local 1164, American Federation of Government Employees, AFL-CIO, the exclusive representative of an appropriate unit of our employees, 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 I, whose address is: 10 Causeway Street, Room 1017, Boston, MA 02222-1046, and whose telephone number is: (617) 565-7280.