Lessons learned from the City of Portland and LiUNA 2023 Strike

Presenters:
Chief Deputy City Attorney Heidi K. Brown
Deputy City Attorney Alan D. Yoder
Portland Office of the City Attorney
Overview

- Overview of the Law
- Overview of the Strike
- Petition for Declaratory Ruling
- Clear and Present Danger
- Unlawful Strike Activity
- Communication
- Access Issues
- What We Learned
- What Worked Well
Overview of the Law

• ORS 243.726
  • (1)—employees who cannot strike
  • (2)—employees that are authorized to strike
  • (3)—clear and present danger exception
  • (4)—Declaratory action that strike is unlawful
  • (5)—ULP by employer not a defense to prohibited strike
Overview of the Law

OAR 115-040-0018—notice of intent to strike
Overview of the Law

ORS 243.732—refusing to cross a picket line is prohibited for employees outside of the bargaining unit.
Overview of the Strike

• Strike began February 2, 2023 at midnight
• Strike ended February 5, 2023 at midnight
• Over 700 employees in the bargaining unit
• Majority of the employees worked in three Bureaus: Transportation, Parks, and Environmental Services
Petition for Declaratory Ruling

• Union’s notice of intent to strike on February 2, 2023 sent on January 20 and 23.

• Notice cited “compensation, safety, and fair treatment in the workplace” as the reasons for the strike. It also mentioned the “rapid cost of living increases and deterioration of working conditions.”
Petition for
Declaratory
Ruling
(DR-001-23)

City
Arguments

• Statute required receipt of certified mail ten-days before strike
• Regulation required Union to mail certified letter in reasonable time to get to employer 10 days before strike
• 10-days notice “before the strike begins” does not include the day the letter was received or the day of the strike.
• Notice did not provide the necessary detail required, relying on Redmond School District 2J v. Redmond Education Association, 3 PECBR 1564, 1569 (1977)
Petition
for Declaratory Ruling
(DR-001-23)

Board Decision

• Actual notice sufficient, even if not certified.

• Even though certified letter arrived late, it could have arrived on time. Sufficient under statute.

• Notice of 10 days includes the first day of the strike in calculation.

• Notice provided sufficient information.
Clear and Present Danger
ORS 243.726(3)(a)

• Wastewater Treatment Plants
• Waste Pump Stations
• Snow and Ice Events
Unlawful & Lawful Strike Activity

• Vandalism
• Violence
• Misbehavior
• Picket
Unlawful & Lawful Strike Activity
Communication Concerns

• What can communicate—generally can communicate factual information.

• What can’t communicate—
  • Direct dealing—*AFSCME Local 2909 v. City of Albany*, 18 PECBR 26 (1999)
  • Certain opinions—*AFSCME Local 2043 v. City of Lebanon*, UP-14-11, 24 PECBR 996 (2012)
Access to Facilities, Phones, and Email

- *Clackamas County Employees’ Association v. Clackamas County*, UP-030-20 (2022)—employer cutting off access to Union President on paid-administrative leave unlawful.
What We Learned

- Milestones that Trigger Response
- COOP
- Communication
- Facilities
- Practice Emergencies
What We Did Well

- Emergency Declaration
- Emergency Services Coordination
- Weather Service
- Nondisclosure Agreements for Outside Contractors
- Sharing resources/expertise
- Shifting priorities to focus on negotiations/strike
What questions do you have?