

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**



INTERNATIONAL FEDERATION OF
PROFESSIONAL & TECHNICAL ENGINEERS,
LOCAL 21, AFL-CIO,

Charging Party,

v.

CITY OF SAN JOSE,

Respondent.

Case No. SF-CE-996-M

PERB Decision No. 2569-M

June 14, 2018

Appearances: Wylie, McBride, Platten & Renner, by Christopher E. Platten, Diane Sidd-Champion, Attorneys, for International Federation of Professional and Technical Engineers, Local 21, AFL-CIO; Renne Sloan Holtzman Sakai LLP, by Charles D. Sakai and Steven P. Shaw, Attorneys, for City of San José.

Before Gregersen, Chair; Banks and Winslow, Members.

DECISION

WINSLOW, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the City of San Jose (City) from a proposed decision by a PERB administrative law judge (ALJ). The unfair practice complaint alleged that the City violated the Meyers-Miliias-Brown Act¹ by failing to provide accurate financial information and by approving a ballot measure that would change retirement benefits without completing good faith negotiations.

The formal hearing took place on February 10-12, 2014, after which the case was submitted for decision. The ALJ issued his proposed decision on November 5, 2014, concluding that the City failed to meet and confer in good faith prior to approving resolutions

¹ The MMBA is codified at Government Code section 3500 et seq. All undesignated section references are to the Government Code.

to place measures before the voters to alter employees' pension plans. Timely exceptions to the proposed decision were filed. On December 9, 2015, after the exceptions were placed on the Board's docket, the parties requested the matter be placed in abeyance, and the Board granted that request.

Over the course of the next couple of years the Board was informed both in writing and in telephone conversations between attorneys for both parties and PERB's General Counsel that settlement was imminent and finally that one had been reached. However, no requests for withdrawal of exceptions were forthcoming. On May 18, 2018 PERB's General Counsel wrote to the parties in this case stating in pertinent part: "With the Board's understanding that these cases have now settled, and are therefore moot, we will consider the complaints withdrawn and close the cases on June 1, 2018, unless any party provides grounds to continue with their adjudications."² After receiving no response from the parties, the General Counsel again wrote on June 4, 2018, in relevant part: "Having received no objections from the parties, this letter serves as notice that the . . . complaints are withdrawn and the cases closed."

The Board has discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (EERA section 3541.3, subd. (i) & (n); MMBA section 3509, subd. (a); PERB Reg. 32320, subd. (a)(2); *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S p. 5; *City of Pinole* (2016) PERB Decision No. 2496, p. 3.) And the Board has a longstanding policy favoring voluntary settlement of disputes, such as that achieved by the parties in this case. (*Dry Creek Joint Elementary School District* (1980) PERB Order No. Ad-81.)

² This letter also referred to two other cases, Unfair Practice Charge No. SF-CE-900-M and SF-CE-924-M. Those cases were placed in abeyance at the parties' request before exceptions were filed, so they were never placed on the Board's docket.

ORDER

The complaint and the underlying unfair practice charge in Case No. SF-CE-996-M are hereby DISMISSED WITH PREJUDICE.

Chairperson Gregersen and Member Banks joined in this Decision.