

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



SAN LUIS OBISPO POLICE OFFICERS
ASSOCIATION,

Charging Party,

v.

CITY OF SAN LUIS OBISPO,

Respondent.

Case No. LA-CE-729-M

PERB Decision No. 2515-M

February 13, 2017

Appearances: Stuart Adams, Attorney, for San Luis Obispo Police Officers Association; Liebert Cassidy Whitmore by Bruce A. Barsook and Che I. Johnson, Attorneys, and Office of the City Attorney by J. Christine Dietrick, City Attorney, for City of San Luis Obispo.

Before Winslow, Banks and Gregersen, Members.

DECISION

BANKS, Member: This case comes before the Public Employment Relations Board (PERB or Board) on exceptions filed by the City of San Luis Obispo (City) to the proposed decision of a PERB administrative law judge (ALJ), which found the City had violated the Meyers-Milias-Brown Act (MMBA)¹ and PERB Regulations² by submitting to voters a ballot measure to repeal the interest arbitration procedures found in former section 1107 of the City's charter without first meeting and consulting in good faith with the San Luis Obispo Police Officers Association (POA), which is the exclusive representative of employees in the City's police department. On April 15, 2014, the City filed its statement of exceptions to the proposed decision and supporting brief, and on June 4, 2014, the Association filed its response thereto and supporting brief. On December 14, 2016, while the matter was pending before the

¹ The MMBA is codified at Government Code section 3500 et seq. All statutory references are to the Government Code unless otherwise indicated.

² PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

Board,³ the parties notified PERB that they had reached a settlement agreement and requested that the City's exceptions be withdrawn and that the complaint and underlying unfair practice charge be dismissed with prejudice.

Under its broad powers to “investigate unfair practice charges or alleged violations of [the MMBA], and [to] take any action and make any determinations in respect of these charges or alleged violations as the board deems necessary to effectuate the policies of [the MMBA],” and to “take any other action as the board deems necessary to discharge its powers and duties and otherwise to effectuate the purposes of [the MMBA],” the Board has discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (MMBA, § 3509, subd. (a); EERA,⁴ § 3541.3, subds. (i) and (n); *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S, p. 5.) When an appeal pending before the Board involves a matter of continuing public interest and a precedential ruling on the matter will be instructive to similarly-situated parties, the Board has exercised its discretion by denying a request for withdrawal, in the interest of justice. (*Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380; *Oakland Unified School District* (1988) PERB Order No. Ad-171a; *ABC Unified School District* (1991) PERB Decision No. 831b.)

³ On December 13, 2016, before receiving the parties' notice of settlement and request for withdrawal and dismissal, the Board issued *City of San Luis Obispo* (2016) PERB Order No. Ad-444-M, a separate decision denying a motion to intervene and application for joinder by the International Association of Firefighters Local 3523 to participate as a party in the present unfair practice case.

⁴ The Educational Employment Relations Act (EERA) is codified at section 3540 et seq.

After carefully reviewing the settlement agreement in this case, the Board finds withdrawal and dismissal to be in the best interest of the parties and consistent with the purposes of the MMBA to promote harmonious labor relations. Accordingly, the parties' requests shall be granted and the proposed decision vacated.

ORDER

The request by the City of San Luis Obispo to withdraw its exceptions to the proposed decision and the request by the San Luis Obispo Police Officers Association to withdraw with prejudice its unfair practice charge in Case No. LA-CE-729-M are hereby GRANTED. The complaint is dismissed and the proposed decision is hereby vacated.

Members Winslow and Gregersen joined in this decision.