stantial an interest with respect to working conditions and remuneration therein as to justify their inclusion. Of the five employees who, at the time of the hearing, regularly worked part time in the department, two, Sclafani and McPhail, spent 60 and 70 percent respectively of their time in the cutting department, more than twice as much time as did any of the other three part-time employees. Sclafani is the only part-time spreader in the department, and McPhail does assorting and ticketing in addition to helping with pin-lays. We find that of the regular part-time employees in the cutting department, only these two share with the full-time employees a substantial interest in the terms and conditions of employment within the department.[3] We shall, therefore, exclude from the unit the three employees, Boykin, Beaman, and Durkee, who share to a much lesser extent in the work of the cutting department and have correspondingly less concern over its terms and conditions of employment. We shall also exclude from the unit the 10 or so unidentified women who assist in making pin-lays in the department on an irregular basis.[4]

Accordingly, we find that the following employees of the Employer at its Newburgh, New York, plant constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All cutting department employees, including those who regularly spend substantial time in cutting department work, and excluding all other employees and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

[3] *Berea Publishing Company*, 140 NLRB 516
[4] *Evans-Picone, Inc.*, Case No. 22–RC–2176 (October 31, 1963).

Horizon House 1, Inc.,[1] Horizon House 2, Inc., Horizon House 4, Inc. *and* Local 68, International Union of Operating Engineers, AFL–CIO, Petitioner. *Case No. 22–RC–2670. March 17, 1965*

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Christopher J. Hoey. The Hearing Officer's rulings are free from prejudicial error and are hereby affirmed. Thereafter, the Employer and the Intervenor filed biefs.

[1] The name of the Employer appears as amended at the hearing

Pursuant to the provisions of Section 3(b) of the Act, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel [Chairman McCulloch and Members Fanning and Brown].

Upon the entire record in this case, the Board finds:

1. The Employer, herein collectively referred to as Horizon House, operates residential, nontransient apartment houses with a gross annual income in excess of $1 million. Annual purchases approximate $75,000, of which some $30,000 is imported from points and firms located outside the State of New Jersey. The capital stock of the Employer is wholly owned by Tishman Realty and Construction Co., Inc. (hereinafter referred to as Tishman), which is engaged in the construction, ownership, and operation of residential apartments and commercial office buildings. It is conceded that Tishman, the parent corporation, whose principal office is located at 666 Fifth Avenue, New York, New York, meets the Board's office building standards for the assertion of jurisdiction.

The Employer contends, however, that the Board should not assert jurisdiction herein, as it is engaged solely in the construction and operation of residential apartment houses for permanent residents. It relies in this regard on *Carol Management Corporation, etc.*, 133 NLRB 1126, in which the Board noted that it had no discretionary jurisdictional standard covering employers engaged exclusively in such an operation. The Employer recognizes that, in *Carol Management*, we stated that where the employer's total operations are diversified we would continue to consider the totality of its operations in order to determine whether any portion thereof meets the discretionary standards for assertion of jurisdiction. It urges that the assertion of jurisdiction in that case was based on a consideration of the operation of a contiguous shopping center which satisfied the requisite jurisdictional standards and that the ruling in *Carol Management* would be unduly extended if the Board were to rely on Tishman's operations herein. We do not agree.

First, the assertion of jurisdiction in *Carol Management* was grounded on the employer's operation of a total of six shopping centers, five of which were located in a neighboring State, as well as the employer's operation of two hotels in New York City which met the hotel standard for assertion of jurisdiction. Second, the record reveals a close interrelationship between the operations of Horizon House and Tishman. As previously noted, the capital stock of Horizon House is wholly owned by Tishman. In addition, employees of Horizon House are paid by Tishman's checks. Charles Quinn, director of property management for Tishman, also serves as vice president of the separate corporations comprising the Employer.

He, too, is paid by check from Tishman. Further, the Employer's resident manager, who supervises the project's superintendent and all other personnel, is supervised by Quinn, to whom he is responsible.

In view of all the foregoing, including the Employer's concession that Tishman meets the Board's standards for assertion of jurisdiction over office buildings, we find that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the purposes of the Act to assert jurisdiction over the Employer.[2]

2. The labor organizations involved claim to represent certain employees of the Employer.[3]

3. No question affecting commerce exists concerning the representation of employees of the Employer with the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act for the following reasons:

The Petitioner seeks to represent a unit of all firemen, engineers, maintenance mechanics, and assistant superintendents employed by Horizon. The record reveals that this group consists of four persons alleged by the Petitioner to be maintenance mechanics, a boilerroom engineer, and the project's assistant superintendent. The Employer contends that the engineer and assistant superintendent are supervisors within the meaning of the Act and that the four employees who are claimed as maintenance mechanics are, in fact, merely handymen whose job interests are indistinguishable from other cleaning and service employees currently represented by the Intervenor under its contract with Realty. These latter employees are hired through Realty and referred to Horizon House on a cost-plus basis and include such classifications as charwomen, elevator operators, elevator starters, porters, waxers, and porter-utility-handymen. The Intervenor agrees with the Employer that these employees are includable within its unit and that the petition should, therefore, be dismissed. We find merit in the position of the Employer and the Intervenor.

While there is no bargaining history, as such, with respect to the sought employees, they have been the subject of considerable dispute between the Employer and the Intervenor for some time. The Intervenor has consistently taken the position that these employees belong within its bargaining unit and are covered by its collective-bargaining agreement. The Employer has argued, and argues here, that the employees are merely temporary in that their jobs will

[2] We leave open, as we did in *Carol Management,* the question of whether the Board should establish a specific standard covering the operation of residential properties alone, and, if so, what standard should be adopted

[3] Building Service Employees International Union, Local 389, AFL–CIO, intervened solely on the basis of a contract with Realty Maintenance Co , a subcontractor or agent of Horizon House The Employer and Intervenor contend that this contract covers the employees sought by Petitioner and serves as a bar to the petition As articles IV and IX of the agreement clearly constitute closed-shop clauses, the contract is not a bar to the petition. *Paragon Products Corporation,* 134 NLRB 662.

terminate upon completion of the construction project.[4] The record will not support this argument. While there has been high turnover among these employees, one has worked 1½ years, and the other three have been employed for a period of 6 to 8 months. In addition, one of the four buildings is only half occupied and not yet completed, while a second is under construction at this time. Thus, there appears no likelihood that the work of the employees in question will, even under the Employer's position, be terminated in the immediately foreseeable future. Finally, Superintendent Thomas Barrett testified that he considered these employees to be permanent, rather than temporary, and that he has never advised applicants for employment during job interviews that the positions would be temporary in nature.

The record further reveals that the employees in question are handymen-porters who assist the engineer in the boilerroom and make minor repairs in individual apartments and hallways. Although the principal activity of the handymen is repair work requiring no specialized skills, while that of the porters is cleaning, these groups of employees frequently work together, are interchangeable, and are subject to the same supervision by Horizon. Additionally, all such employees are subject to the same work rules and regulations established or concurred in by Horizon.[5] It is apparent that Horizon is the employer of the cleaning and service employees[6] as well as of the maintenance employees sought herein. The repairs made by the handymen are minor in nature, and all repairs requiring skilled mechanical work are performed by employees of construction contractors. We note also that the Intervenor's contract contains the specific classification of porter-utility-handymen, although the only employees falling within that classification are those sought by the Petitioner. Finally when these men are employed, they are hired as handymen and not as mechanics.

For the foregoing reasons, we find that the interests, functions, and skills of the handymen are not sufficiently distinct from those of the other employees of the Employer to warrant their separate representation. Accordingly, the petition will be dismissed.

[The Board dismissed the petition.]

MEMBER JENKINS took no part in the consideration of the above Decision and Order.

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[4] The Employer concedes that if the employees are permanent, they would be subject to the collective-bargaining agreement with the Intervenor.

[5] The record reveals that Horizon was consulted by Realty during the course of the latter's negotiations with the Intervenor.

[6] See, e g., *Jerry Fairbanks, Inc.*, 96 NLRB 1140, 1142.