

**The Children's Village, Inc., Employer and Petitioner
and Local 1707, Community and Social Agency
Union, AFSCME. Case 2-RM-1603**

November 30, 1970

BY CHAIRMAN MILLER AND MEMBERS
FANNING, BROWN, AND JENKINS

**DECISION AND DIRECTION OF
ELECTION**

Upon a petition¹ duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Joel P. Biblowitz. After the hearing and pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Regional Director for Region 2 issued an Order Transferring the Case to the Board for decision. Thereafter, the Employer and the Union each filed a position letter.

The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

1. The Children's Village, Inc., is a nonprofit, New York State corporation provided for by state statute,² which describes the purposes of the Village as follows:

(i) To provide and maintain an institution for the care and education of delinquent and other dependent children of school age . . . including the study and prevention of emotional problems of children and families.

(ii) To establish and maintain small group homes and day care centers for the care of children and families . . .

(iii) To establish and maintain a program for the placing out of children and minors.

(iv) To establish and maintain a facility for the examination, diagnosis, care or treatment, on an out patient basis . . .

(v) To establish and maintain the following programs in relation to the above purposes:

(1) To train and educate persons in the care and education of delinquent and other children.

(2) To maintain a family counselling service.

(3) To study the emotional problems of children and families with the objective of prevention and treatment of these disabilities.

The Village has about 240 Boys (aged 7-18) at its main facility in Dobbs Ferry, about 40 in group

residences, and 20 in foster homes. Most of the boys come from New York State, primarily from New York City. A few come from other States. (At the time of the hearing there were only 2 nonresidents though there have been as many as 20.) In most cases welfare districts, either directly or through the courts, refer the boys to the Village, which has the final say on placement. The boys are initially committed for 18 months, but the period is often extended. The average stay in the Village is 33 months. About 80 percent of the boys are described as "persons in need of supervision," and 5 percent are delinquent. They are emotionally disturbed, incorrigible, and do not obey parents or authorities. The Village, because of a lack of proper facilities, does not accept either psychotic or retarded children.

The boys admitted to the Village require total treatment, and a different treatment is needed for each child. Treatment involves the following disciplines: psychiatry, psychology, casework, education, remedial reading, research, training, child care, and recreation. Treatment begins with placement in 1 of 17 cottages, each having from 12 to 16 boys. At all times at least one child care counsellor is present. A boy attends school in the morning, eats lunch, and attends school in the afternoon, unless he has some special treatment scheduled. In the afternoon and evening a child may be involved in a recreation program directed by recreation specialists and counsellors. A boy sees his caseworker frequently. The caseworker also works with the boy's family. The boy also sees a psychologist periodically and a psychiatrist if needed. The Village maintains a small clinic, staffed by a part-time doctor and nurses, for routine health matters. More complex medical treatment is arranged through nearby hospitals.

There is a special school district at the Dobbs Ferry facility, but the parties stipulated that it is separate from the Village. Likewise, the parties stipulated that an out-patient clinic, run jointly by Children's Village and the County of Westchester, should be considered as separate because it is not directly connected with the regular operations of the Village.

The Village grosses about \$3.5 million per year—about 90 percent from state and local welfare agencies, with some public donation, and a very small endowment. Also the Bureau of Child Welfare will decide if a family of a child can afford to pay part of the child's upkeep, and, if so, will fix the amount. Although the amount of revenue from this source is indeterminate from the record, it appears *de minimis*. Annually, the Village purchases, directly and indirect-

¹ The Regional Director for Region 2, after a hearing, dismissed the Employer's petition on the grounds that the Employer is a statutorily exempt hospital. The Employer appealed to the National Labor Relations

Board, which reversed the Regional Director's dismissal and remanded the case to him for further hearing.

² Chapter 662, section 2a

ly from out of State about \$300,000–\$400,000 worth of goods.

Although the statutory meaning of the term “hospital” is difficult to define, it is clear that the Employer does not fall within any acceptable usage of that term. We find therefore that the Village is an “employer” within the meaning of Section 2(2) of the Act, and that the exemption given to nonprofit hospitals is not available to it.

The revenues and expenditures of the Village are sufficient in amount to meet any of our ordinary jurisdictional standards.³ Accordingly, we find that the Employer exerts a substantial impact on commerce and that it would effectuate the policies of the Act to assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.

³ In the absence of any specific standard for this type of operation, we have applied existing standards, but we leave open the question of whether or not to establish a specific standard for such cases.

⁴ At the hearing the parties stipulated to exclude all employees except psychologists, caseworkers, recreation employees, doctors, nurses, and psychiatrists from the unit. The Union then offered to stipulate to additionally exclude recreation employees, doctors, nurses, and psychiatrists. Subsequently in its letter of position, the Employer agreed with the Union's offer to so stipulate, thus, agreeing with the Union that a unit of only psychologists and caseworkers is appropriate.

⁵ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The parties agree that a unit consisting of only psychologists and caseworkers is an appropriate unit.⁴ Accordingly, we shall direct an election in the unit described below:

All psychologists and caseworkers, and their aides, employed by the Children's Village, Inc., excluding all other employees and supervisors within the meaning of the Act.

[Direction of Election⁵ omitted from publication.]

parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear Inc.*, 156 NLRB 1236. *N L R B v Wyman-Gordon Co.*, 394 U S 759. Accordingly, it is hereby directed that an election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 2 within 7 days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.