

**Land Title Guarantee and Trust Co., Employer-Petitioner and Teamsters Union Local No. 293, Affiliated With International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Cases 8-RM-621 and 8-RC-8220**

November 10, 1971

**DECISION AND DIRECTION OF ELECTION**

BY CHAIRMAN MILLER AND MEMBERS  
FANNING AND JENKINS

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Sanford Gross on certain dates between June 1 and August 5, 1971. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the above-entitled matter was transferred by the Regional Director for Region 8 to the National Labor Relations Board for consideration. Briefs have been filed on behalf of Land Title Guarantee and Trust Co., the Title Examiners Union No. 19496, AFL-CIO, and the Independent Title Workers Union.<sup>1</sup>

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in connection with this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. The rulings are hereby affirmed.

Upon the entire record in this proceeding, including the briefs filed by the parties, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
2. The labor organizations involved claim to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of certain employees of the

Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. Land Title Guarantee and Trust Co., the Employer herein, is an Ohio corporation engaged in the business of researching, insuring, and guaranteeing titles to real estate and acting as escrow agent in real estate transactions.

Although some employees have never been represented by a union, the majority of employees have historically been divided into two units represented by different unions. Since its certification in 1945, the Independent Title Workers Union has represented the unit of employees that includes all females in certain departments.<sup>2</sup> The Title Examiners Union has represented male employees in certain classifications since 1934, although not certified in that unit until 1948. Since 1965, this Union has represented all employees in these classifications regardless of sex.<sup>3</sup>

In its petition, the Employer contends that the only appropriate unit is one which includes all employees.

The Teamsters Local No. 293 stipulated that the unit sought by the Employer would be most appropriate. However, it takes the position that the unit described in its amended petition is also appropriate.<sup>4</sup> This unit includes all employees now represented by the Independent Title Workers Union as well as some previously unrepresented employees, but does not include certain other previously unrepresented employees who perform substantially the same function as employees within the unit sought.<sup>5</sup>

While conceding that the unit sought by the Employer is appropriate, the Independent Title Workers Union maintains that its historical unit is also appropriate and requests a finding to that effect.

The Title Examiners Union objects to the unit petitioned for by the Employer because it fails to carve out the unit it has historically represented.

In contending that two separate units could be appropriate, all three unions rely on the bargaining history. In addition, the Title Examiners Union contends that the unit it represents is composed of technical employees entitled to separate representation.

Operatives, Draftsmen and Location Service Crew Helpers and Group Leaders, but it shall not include any supervisor or assistant supervisor, except as hereinafter provided in Section 6 and Section 10 hereof

<sup>4</sup> The Teamsters amended petition requested the following unit.

All employees employed in the following departments: Plant department, joint maintenance department, court department, proofreading department, engineering department, typing department, telephone exchange, data processing department, photo department, statewide department, billing and order department, internal auditing department, excluding department heads, supervisory and executive personnel and those persons currently covered under the contract between the Company and Title Examiners Union No. 19496, AFL-CIO.

<sup>5</sup> For example, the secretaries in the escrow department would not be included in this unit

<sup>1</sup> At the hearing, the Independent Title Workers Union and the Title Examiners Union No. 19496, AFL-CIO, intervened

<sup>2</sup> The unit description in the last contract which expired on July 31, 1971, is as follows:

All female office employees employed in the City of Cleveland, Ohio in the following departments: plant department, joint maintenance department, court department, proof reading department, engineering department, typing department, and telephone exchange. Department heads, supervisory employees and persons occupying a position executive in character are excluded.

<sup>3</sup> The unit description in the most recent contract, which expired on July 31, 1971, is as follows:

employees . . . in the classification of Title Examiners, Opinioners, Reviewers, Miscellaneous Title Operatives, Escrow Auditors, Title Engineers, Court Searchers, Location Service Crew Chiefs, Field Work Reviewers, Locators, Escrow Officers and Auditors and Plant

With respect to the latter contention, the evidence indicates that many employees in the unit represented by the Title Examiners Union have only high school educations and need only a few week's training to perform their work.<sup>6</sup> In addition, the training of some classifications in the unit represented by the Independent Title Workers Union exceeds the training requirements for some classifications in the unit represented by the Title Examiners Union.<sup>7</sup> Since no special training or education is required to perform many of the jobs in the unit, separate representation of those sought by the Title Examiners Union cannot be justified as encompassing all, if any, technical employees.

Furthermore, in this case, the long bargaining history in separate units does not support the appropriateness of those units. The units were initially drawn to afford separate representation for male and female employees. The Board has held that units based solely on the sex of employees are inappropriate<sup>8</sup> and has disregarded bargaining history in such units.<sup>9</sup>

The fact that the Title Examiners Union no longer requires employees to be male in order to be part of the unit it represents does not cure the defect caused by the original sexual segregation. Thus the separate units, as they currently exist, constitute arbitrary

<sup>6</sup> For example, miscellaneous title operatives, locators, draftsmen, and location crew helpers.

<sup>7</sup> Title assemblers are represented by the Independent Title Workers Union. In addition to other training, these title assemblers must be trained as locators, a classification represented by the Title Examiners Union.

<sup>8</sup> *Cuneo Eastern Press, Inc.*, 106 NLRB 343.

<sup>9</sup> *United States Baking Company, Inc.*, 165 NLRB 951.

<sup>10</sup> Female court abstractors are represented by the Independent Title Workers Union while the male court abstractor is represented by the Title Examiners Union.

<sup>11</sup> Bargaining history in units based on arbitrary divisions is not a controlling factor in unit determinations. *Owens-Illinois Glass Company*, 112 NLRB 172, 177; *New Deal Cab Company, Inc.*, 159 NLRB 1838.

<sup>12</sup> In order to assure that all eligible voters may have the opportunity to

groupings which cannot be justified under any standard recognized by the Board. Both units cross departmental lines and do not constitute groupings subject to separate supervision. All employees receive the same fringe benefits, work the same hours, and are paid on a salary basis. Some classifications represented by the Independent Title Workers Union entail the same functions as classifications in the unit represented by the Title Examiners Union.<sup>10</sup> Accordingly, neither unit reflects a community of interest distinct from that of employees as a whole.<sup>11</sup>

For the foregoing reasons, we find that the history of bargaining does not justify continued existence of the two separate units. Because the separate units petitioned for are inappropriate, we find that a unit of all employees is the only appropriate unit.

In view of the above, we find that the following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees employed at and working at or through or out of the office facilities located at 1275 Ontario Street, Cleveland, Ohio, excluding officers, cashiers, auditors, chief title examiner, title officers, confidential employees (executive secretaries), guards and supervisors within the meaning of the Act.

[Direction of Election<sup>12</sup> omitted from publication.]

be informed of the issues in the exercise of their statutory right to vote, all 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 8 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