

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29**

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**GODDARD RIVERSIDE COMMUNITY CENTER**

**and**

**Case Nos. 2-CA-39604  
2-CA-39928**

**LOCAL 74, UNITED SERVICE WORKERS UNION, IUJAT**

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**GENERAL COUNSEL'S STATEMENT OF EXCEPTIONS  
TO THE DECISION OF THE ADMINISTRATIVE LAW JUDGE**

Pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations, the General Counsel, by its Counsel James P. Kearns, hereby excepts to Decision and Recommended Order of Administrative Law Judge Raymond P. Green in the above-referenced matter. In his decision, which issued on August 3, 2011, the ALJ dismissed the Complaint in its entirety, failing to find that Respondent violated Section 8(a)(1) and (5) of the Act by unilaterally changing its employees health insurance plan on July 1, 2009 and July 1, 2010. The ALJ also failed to find Respondent unlawfully failed and refused to bargain with the Union in good faith over its Capital hall employees, in violation of Section 8(a)(1) and (5) of the Act.

General Counsel excepts to the factual and legal conclusions upon which the Judge based his failure to find this violation alleged in the Complaint, and his consequent failure to provide an appropriate remedy. General Counsel contends that the Judge erred specifically as set forth more fully below.

1. The Judge found that when Respondent changed its health insurance plan in both July 2009 and July 2010, the Union was notified of a *fait accompli* and was not given an offer to bargain about the changes with Respondent. ALJD p. 8, lines 25-26. The Judge erred in concluding that the Union acquiesced to Respondent's right to make the changes based upon its failure to object when Respondent made changes to the health insurance in earlier years. ALJD p. 11, line 16. The Judge erred in reaching this conclusion despite finding Respondent did not give notices of past changes directly to the Union and in the absence of record evidence that the Union was aware of the earlier changes. The Judge erred by basing his conclusion that the Union waived its

right to bargain on the basis that it was “unlikely” that the Union did not know of the earlier changes. ALJD p. 4, line 9. Further, regardless of whether the Union had knowledge of the earlier changes, the Judge erred in legal conclusion that Respondent failed to violate Section 8(a)(1) and (5) of the Act when it unilaterally changing its employees health insurance plan on July 1, 2009 and July 1, 2010.

2. The Judge erred, as a matter of fact and law, by failing to find Respondent violated Section 8(a)(1) and (5) of the Act by failing to bargain in good faith with the Union over the Capitol Hall employees voting group. The Judge erred by relying on alleged pre-certification bargaining to conclude that Respondent bargained in good faith and the parties reached impasse. ALJD p. 17, lines 21-23, 44.

Respectfully submitted,



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Dated at Brooklyn, New York  
September 29, 2011