



United States Government

NATIONAL LABOR RELATIONS BOARD
Region 32
1301 Clay Street, Room 300N
Oakland, CA 94612-5224

April 3, 2012

(510) 637-3260

National Labor Relations Board
Office of the Executive Secretary
Attn: Lester A. Heltzer
1099 – 14h Street, N.W.
Washington, DC 20570-0001

re: *American Baptists Homes of the West d/b/a Piedmont Gardens*
Cases 32-CA-25247, 32-CA-25248, 32-CA-25266, 32-CA-25271 through 32-CA-25308, and 32-CA-25498

Dear Mr. Heltzer:

This is in response to Respondent's March 22, 2012 letter to you in the above cases, which are presently before the Board on the parties' various exceptions and cross-exceptions. The undersigned objects to Respondent's letter for the following reasons.

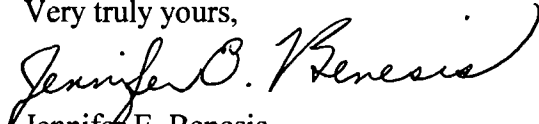
First, the letter is procedurally inappropriate. To the extent that it purports to be a motion, it is not in the form of a motion, does not identify what action it seeks from the Board, and fails to set forth any extraordinary circumstances warranting reconsideration, rehearing or reopening of the record. See Board's Rules and Regulations, Section 102.48(d)(1). To the extent that Respondent's letter simply seeks to advise the Board of one of its recently-issued decisions, Respondent has not shown either the appropriateness or necessity of such a letter.

Second, and beyond the letter's procedural deficiencies, the case cited in Respondent's letter is inapposite to the information issue involved in these cases. The cited case, *Alcan Rolled Products*, 358 NLRB No. 11 (February 27, 2012), involves an employer seeking to protect the identities of employees who reported the unsafe conduct of another employee and appears to extend the Board's decision and reasoning in *Pennsylvania Power and Light Co.*, 301 NLRB 1104 (1991) to a non-nuclear plant setting. The information issue in these cases involves Respondent's failure to provide the Union with the names and addresses of permanent strike replacements and Respondent has defended that failure on the basis of confidentiality interests that are completely different from those involved in *Alcan*. Moreover, there is very clear Board law on an employer's obligation to provide information relating to permanent strike replacements, including under what circumstances an employer may be privileged to withhold such information [see *Grinnell*

Fire Protection Systems Co., 322 NLRB 1257 (2000)]. Finally, there is nothing in the *Alcan* decision that indicates that it either applies to requests for information relating to permanent strike replacements or modifies existing Board law relating to an employer's obligation to provide such information.

Accordingly, Respondent's March 22, 2012 letter should be rejected.

Very truly yours,



Jennifer E. Benesis

Counsel for the Acting General Counsel

cc: Gilbert J. Tsai, Esq.
Bruce A. Harland, Esq.
Manuel A. Boigues, Esq.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

**AMERICAN BAPTIST HOMES OF THE
WEST d/b/a PIEDMONT GARDENS**

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, UNITED HEALTHCARE
WORKERS - WEST**

**Case(s) 32-CA-025247
32-CA-025248
32-CA-025266
32-CA-025271
32-CA-025308
32-CA-025498**

AFFIDAVIT OF SERVICE OF PROPOSED MOTION TO CONSIDER CASE

I, the undersigned employee of the National Labor Relations Board, state under oath that on **April 3, 2012**, I served the above-entitled document(s) *electronically*, upon the following persons, addressed to them at the following addresses:

<p>Gilbert J. Tsai, Esq. Arnold & Porter LLP 7th Floor, Three Embarcadero Center San Francisco, CA 94111-4024 VIA E-MAIL: gilbert.tsai@aporter.com</p>	<p>Bruce A. Harland, Esq. Weinberg, Roger & Rosenfeld 1001 Marina Vlg Pkwy., Ste 200 Alameda, CA 94501-6430 VIA E-MAIL: bharland@Unioncounsel.net</p>
<p>Les Heltzer Executive Secretary 1099 14th Street, N.W., Suite 11610 Washington, DC 20005 VIA E-FILE</p>	<p>Manuel A. Boigues, Esq. Weinberg, Roger & Rosenfeld 1001 Marina Vlg Pkwy., Ste 200 Alameda, CA 94501-6430 VIA E-MAIL: mboigues@Unioncounsel.net</p>

April 3, 2012
Date

Frances Hayden, Designated Agent of NLRB
Name


Signature