

820 Eighth Avenue  
 New York, New York 10018-1405  
 (212) 218-5500  
 Fax (212) 218-5528  
 www.seyfarth.com



Date: September 6, 2012

RECIPIENT	COMPANY	PHONE NO.	FAX NO.
Lester Heltzer	NLRB (Executive Secretary)		(202) 273-4270

FROM: Paul Galligan  
 PHONE: (212) 218-5521  
 RE: Case No. 2-CA-39604 et al.

File No:	99999-2015	Number of Pages, Including Cover: 4
----------	------------	-------------------------------------

- |  |  |
|--|--|
| <input type="checkbox"/> Hard copy to follow | <input type="checkbox"/> Hard copy will not follow             |
| <input type="checkbox"/> Per your request    | <input type="checkbox"/> Please review and revise if necessary |
| <input type="checkbox"/> Please telephone me |  |

**MESSAGE:**

Please see attached letter to RD of Region 2.

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THE FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE PHONE (212) 218-5500 AS SOON AS POSSIBLE.

NY 1 26459968.1  
 14819579v.1



620 Eighth Avenue  
New York, New York 10018-1405  
(212) 218-5500  
fax (212) 218-5528  
www.seyfarth.com

Writer's direct phone  
(212) 218-5521

Writer's e-mail  
pgalligan@ny.seyfarth.com

September 6, 2012

**By U.S. Mail**

Karen Fernbach,  
Acting Regional Director  
National Labor Relations Board, Region 2  
26 Federal Plaza, Room 3614  
New York, New York 10278  
Attn: Jaffe, Leah Z. <leah.jaffe@nlrb.gov> (via email)

Re: Goddard Riverside Community Center  
Case No. 2-CA-39604 et al.

Dear Ms. Fernbach:

Attached as Exhibit A is Respondent Goddard and Charging Party Local 74's new 4-year (July 1, 2012-June 30, 2016) collective bargaining agreement, signed and dated Aug. 20, 2012, and ratified Aug. 30, 2012, on the basis of which Goddard requests you to withdraw the consolidated CA complaint in 39604 and 39928 issued Dec. 30, 2010, and to dismiss the amended CA charge in 40525 filed July 26, 2011.

Withdrawal of the CA complaint at this time would be good for the private parties' collective bargaining relationship: neither of them would end up a loser at the Board or Circuit Court over matters now resolved in collective bargaining. And its good for the government: General Counsel wouldn't end up a loser at the Board either.

This letter calls particular attention to the following contract changes shown on Exhibit A:

- pp. 4-5 Art. I Recognition: new Sect. 9 adds the disputed previously-unrepresented Capitol Hall and 140<sup>th</sup> St. employees to the bargaining unit, advances their 7/1/12 pay raise to 2/1/12, and provides for the Union to withdraw related ULP charges, and pp. 12 Art. VIII, Layoff and Recall: updates Sect. 3 list of bargaining unit positions by program, adding 140 West 140<sup>th</sup> St. and Capitol Hall;

14794011v.2

UNION LABELS ARE PRINTED ON RECYCLED STOCK

ATLANTA BOSTON CHICAGO HOUSTON LOS ANGELES NEW YORK SACRAMENTO SAN FRANCISCO WASHINGTON, D.C. LONDON

- pp. 23-24 Art. XX Health Insurance: deletes “reopener” clause, provides for Employer to give Union “advance notice in writing of any plan or contribution changes from one July 1-June 30 plan year to another,” and provides for the Union to withdraw related ULP charges; and
- p. 28 Art. XXVII Duration: July 1, 2012 to June 30, 2016.

Regarding the 2-CA-39604 part of the case (alleged unilateral changes to the Employer’s health insurance plan), the new 2012-2016 contract continues without change the beginning portion of ARTICLE XX providing for the Local 74-represented employees to be covered by “the Agency’s health and hospitalization group insurance plan.” It amends Article XX to delete the 2004 reopener clause in its entirety, (Exhibit A, p. 25), and to add new clauses both explicitly recognizing the Employer’s right to make “any plan and contribution changes from one July 1-June 30 plan year to another” (new matter underlined):

**ARTICLE XX Health and Hospitalization Insurance** Full-time and regular part-time employees and their eligible dependents will be covered by the Agency’s health and hospitalization group insurance plan, with the understanding that the Employer shall give the Union business representative advance notice in writing of any plan or contribution changes from one July 1-June 30 plan year to another.

(Exhibit A, Art. XX, p. 24.)

The Union has also agreed to withdraw its charges in 2-CA-39604:

The Union agrees to withdraw its ULP charges filed 12/1/09, 1/20/10 and 7/10/10 in NLRB Case No. 2-CA-39604.

(Exhibit A, Art. XX, p. 25.)

Collective bargaining, and common sense, have prevailed.

Regarding the 2-CA-39928 (alleged refusal to bargain over a new group of previously unrepresented employees) and 2-CA-40525 (Jan. and July 2011 “unilaterally implemented wage increases for its employees): The new contract adds the following new Section 9 to ARTICLE I Recognition (new matter underlined):

**Section 9:** Amend to recognize Local 74 as the bargaining representative of, and to add to the bargaining unit of social service employees recognized by Local 74 and covered by the contract, the following group of previously unrepresented employees: all full-time and regular part-time case managers, group workers, group counselors, social service workers, administrative assistants/clericals, licensed

practical nurses, and housekeepers at the Employer's facilities at Capitol Hall, 166 West 87<sup>th</sup> St., NYC, and at 140 West 140<sup>th</sup> St., NYC, but excluding all other employees, and guards and supervisors as defined in the Act. For all such employees employed 2/1/12 for whom the Union submits signed Payroll Deduction Authorization cards no later than 9/15/12, the date of the 7/1/12 CBA pay raise will be advanced to 2/1/12. The Union accordingly agrees to withdraw its ULP charges filed 5/12/10 in NLRB Case No. 2-CA-39928 and 7/26/10 in NLRB Case No. 2-CA-40525.

(Exhibit A, pp. 4-5.)

**ARTICLE VIII Layoff and Recall** list of "union positions by program with the number of employees in each position" to add both of said CAPITOL HALL and 140 WEST 140<sup>th</sup> ST. programs and the number of employees in each of said programs.

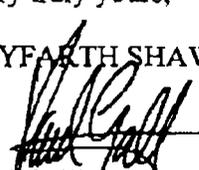
(Exhibit A, p. 12.)

Based on these results of the just concluded collective bargaining for a new contract, it will serve the collective bargaining policies and purposes of the Act for the consolidated complaint and charge in these cases to be dismissed administratively now, without the issuance of any decision by the Board on the respective and pending Exceptions and Cross Exceptions to Judge Green's decision dated Aug. 3, 2011 dismissing the entire Consolidated Complaint issued by you Dec. 30, 2010.

By copy of this letter to Mr. Kearns and Mr. Grabois, I am asking General Counsel and Local 74 to join in this request. As noted, Local 74 has already agreed in the new contract to withdraw all of its charges in all of these cases. (Exhibit A, pp. 5, 25). I am copying Executive Secretary Heltzer in case it is appropriate for the Board to take further action in 39604/39928 based on the new contract. Thank you for your attention to this request. I can be reached at (212) 218-5521.

Very truly yours,

SEYFARTH SHAW LLP

  
Paul Galligan

cc: Andrew Grabois, Esq. (via email: [agrabois@ocblaw.com](mailto:agrabois@ocblaw.com))  
Eric Rosenfeld, Esq. (via email) (w/out encl.)  
James Kearns, Esq. (via email: [James.Kearns@nlrb.gov](mailto:James.Kearns@nlrb.gov))  
Lester Heltzer (via fax) (w/out encl.)