



SERVICE EMPLOYEES  
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CTW, CLC

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February 25, 2013

**Via E-Filing**

Gary Shiners  
Acting Executive Secretary  
National Labor Relations Board  
1099 14th Street, NW  
Washington, DC 20570-0001

Re: AM Property Holding Corp.  
Case 2-CA-33146 et al.

Dear Mr. Shiners:

I am writing on behalf of Charging Party Service Employees International Union, Local 32BJ ("Local 32BJ") in response to the letter dated February 21, 2013 submitted by counsel for Respondent Planned Building Service ("PBS").

PBS argues that Local 32BJ's request that the Board overrule its decision in *Planned Building Services*, 347 NLRB 670 (2006) is somehow beyond the scope of the Second Circuit's remand. This assertion is clearly incorrect. The Second Circuit remanded the case for the Board to determine "whether PBS was a successor employer to Clean-Right, and thus violated Section 8(a)(1)(5)(sic) of the Act by failing to bargain with Local 32BJ." Obviously, if the Board determines that PBS violated the Act, then the Board must decide upon the appropriate remedy. Moreover, it is well-established that the Board has authority to fashion an appropriate remedy whether the remedy is specifically requested or not. *Willamette Industries*, 341 NLRB 560, 564 (2004). In fact, the Board has overruled its remedial precedents where "[n]o party has asked the Board to reconsider the law ... and no briefing on the question has been sought." *Oil Capitol Sheet Metal, Inc.*, 349 NLRB 1348, 1358 (2007)(Members Liebman and Walsh, dissenting).

Thus, acting pursuant to the Court's remand, the Board may modify its current position regarding the appropriate remedy for a successor refusal-to-hire/refusal-to-bargain case.

Sincerely,

Andrew Strom  
Associate General Counsel

cc. Marvin Weinberg, via e-mail  
Olga Torres, Region 2, via e-mail  
Alan B. Pearl, via e-mail  
Marvin Gringer, via e-mail

