

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13**

**LA CASA NORTE**

**Employer**

**and**

**Case 13-RC-262986**

**OFFICE AND PROFESSIONAL EMPLOYEES  
INTERNATIONAL UNION LOCAL 39**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended (Act), a hearing on this petition was conducted before a hearing officer of the National Labor Relations Board (Board) to determine whether it is appropriate to conduct an election in light of the issues raised by the parties.<sup>1</sup>

The Employer and Petitioner stipulated to all but one litigable matter. The parties were unable to agree on the eligibility of the following classifications: Data and Evaluation Specialist, Grants Coordinator, Bilingual Case Manager for Solid Ground Supportive Housing Program, Project Coordinator (TAP), Volunteer Coordinator, Leasing Associate, and Development Associate.<sup>2</sup> Each disputed classification is occupied by one employee and the overall unit, including these disputed classifications, totals about 70 employees.

The sole litigable issue in this case is the appropriateness of the petitioned-for unit, specifically the eligibility of employees in the classifications listed above. Because the

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<sup>1</sup> Upon the entire record in this proceeding, the undersigned finds:

- a. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
- b. 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.
- c. The Petitioner is a labor organization within the meaning of the Act.
- d. The Petitioner seeks to represent certain employees of the Employer in the unit described in the petition it filed herein, but the Employer declines to recognize the Petitioner as the collective-bargaining representative of those employees.
- e. There is no collective-bargaining agreement covering any of the employees in the voting group sought in this petition and the parties do not contend that there is any contract bar to this proceeding.
- f. 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.

<sup>2</sup> The Petitioner maintains individuals in the classifications are employees eligible to vote while the Employer contends the Data and Evaluation Specialist and Grants Coordinator are managerial employees, the Bilingual Case Manager for Solid Ground Supportive Housing Program, Project Coordinator (TAP), Volunteer Coordinator, and Leasing Associate are supervisory employees, and the Development Associate is a confidential employee.

Employer's Statement of Position and offer of proof raise eligibility issues affecting about 10 percent of the unit, I conclude that the Employer's contentions do not significantly change the size or character of the unit and, thus, are not relevant to a question concerning representation. Therefore, I instructed the hearing officer not to allow the parties to present evidence, as I concluded that it was unnecessary to resolve the eligibility issues before the election is conducted. I exercise my discretion to defer this issue, and to allow the contested employees to vote under challenge, and to resolve their eligibility at a later time, if necessary.

**IT IS HEREBY ORDERED** that an election be conducted under the direction of the Regional Director for Region 13 in the following appropriate bargaining unit:

**Included:** All full-time and regular part-time employees of the Employer who work at the facilities currently located at 3533 W. North Ave., Chicago, IL 60647; 3507 W. North Ave., Chicago, IL 60647; 1940-1942 N. California Ave., Chicago, IL 60647; and 1736 W. 47th St., Chicago, IL 60609; including the following classifications: Housing Advocate, Lead Housing Advocate, Finance Associate, Maintenance Associate, Project-Based Housing Case Manager, Northside Drop-In Case Manager, Southside Drop-In Case Manager, Scattered Site Case Manager, Scattered Site Lead Case Manager, Pregnant & Parenting Case Manager, Rapid Rehousing Case Manager, Academic Case Manager, Individual Giving & Special Events Coordinator, Drop-In Specialist, Information & Referral Specialist, Youth Empowerment Specialist and Lead Youth Empowerment Specialist.

**Excluded:** All confidential employees, office clerical employees, managerial employees, professional employees, guards and supervisors as defined by the Act.

**Others Permitted to Vote:** At this time, no decision has been made regarding the eligibility of employees in the following classifications: Data and Evaluation Specialist, Bilingual Case Manager for Solid Ground Supportive Housing Program, Project Coordinator (TAP), Volunteer Coordinator, Leasing Associate, Grants Coordinator, and Development Associate. Since no decision has been made regarding whether these classifications are included in, or excluded from, the bargaining unit, I have determined that individuals in these classifications may vote in the election, but their ballots shall be challenged since their eligibility has not been resolved. The eligibility or inclusion of individuals in these classifications will be resolved, if necessary, following the election.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by Office and Professional Employees International Union Local 39.

## 1. Election Details

I direct the election be conducted by mail ballot. Since, pursuant to Section 102.66(g)(1) of the Board's Rules and Regulations, the type of election is not a litigable issue, my rationale for directing a mail ballot election is set forth in a separate letter.

The ballots will be mailed to employees employed in the appropriate collective-bargaining unit at 5:00 p.m. on **Friday, August 21, 2020**, from the National Labor Relations Board, Region 13, 219 South Dearborn Street, Suite 808, Chicago, Illinois. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote by mail and do not receive a ballot in the mail by **August 28, 2020**, should communicate immediately with the National Labor Relations Board by either calling the Region 13 Office at (312) 353-7570 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

Ballots will be due on **Tuesday, September 15, 2020**. All ballots will be commingled and counted on **Thursday, September 17, 2020** at 10:00 a.m. In order to be valid and counted, the returned ballots must be received in the Regional Office prior to the counting of the ballots.

## 2. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **August 6, 2020**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are 1) employees who have quit or been discharged for cause since the designated payroll period; 2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and 3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### 3. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters. The Employer must also include in a separate section of that list the same information for those individuals who, according to this direction of election, will be permitted to vote subject to challenge.

To be timely filed and served, the list must be *received* by the regional director and the parties by **August 18, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The region will not serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

### 4. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those

employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

## **I. RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

**Pursuant to Section 102.5(c) of the Board's Rules and Regulations, a request for review must be filed by electronically submitting (E-Filing) it through the Agency's web site ([www.nlr.gov](http://www.nlr.gov)), unless the party filing the request for review does not have access to the means for filing electronically or filing electronically would impose an undue burden.** To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

La Casa Norte  
Case 13-RC-262986

Dated: August 14, 2020

*/s/ Peter Sung Ohr*

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Peter Sung Ohr, Regional Director  
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