

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**

LOMPOC POLICE OFFICERS ASSOCIATION,

Charging Party,

v.

CITY OF LOMPOC,

Respondent.

CITY OF LOMPOC,

Charging Party,

v.

LOMPOC POLICE OFFICERS ASSOCIATION,

Respondent.

Case Nos. LA-CE-555-M
LA-CE-564-M
LA-CE-585-M

Case No. LA-CO-100-M
PERB Decision No. 2328-M
October 3, 2013

Appearances: Lackie, Dammeier, McGill & Ethir by Michael A. Morguess and Zachery A. Lopes, Attorneys, for Lompoc Police Officers Association; Liebert Cassidy Whitmore by Adrianna Guzman, Attorney, for City of Lompoc.

Before Martinez, Chair; Huguenin, Winslow and Banks, Members.

DECISION

MARTINEZ, Chair: This case is before the Public Employment Relations Board (PERB or Board) on exceptions filed by the Lompoc Police Officers Association (Association) and cross-exceptions filed by the City of Lompoc (City) to a proposed decision of a PERB administrative law judge (ALJ). Four complaints and underlying unfair practice charges, three filed against the City and one filed against the Association, were consolidated for formal hearing. Each party alleged that the other had engaged in bad faith bargaining in violation of the Meyers-Milias-Brown Act (MMBA).¹ The Association also alleged that the City interfered

¹ The MMBA is codified at Government Code section 3500 et seq.

with the Association's rights and retaliated against the Association. The ALJ ordered that the complaints and underlying unfair practice charges in Case No. LA-CO-100-M, *City of Lompoc v. Lompoc Police Officers Association*, and Cases Nos. LA-CE-555-M and LA-CE-564-M, *Lompoc Police Officers Association v. City of Lompoc*, be dismissed. With respect to Case No. LA-CE-585-M, the ALJ concluded that the City violated the MMBA by unilaterally implementing a salary reduction without negotiating the salary reduction methodology with the Association and ordered that all other allegations in that case be dismissed. The ALJ determined, however, that PERB's remedial authority under MMBA section 3509 does not extend to persons who are peace officers. The ALJ, therefore, limited the make-whole order to all bargaining unit members except peace officers.

On May 30, 2012, the Association filed exceptions. On June 22, 2012, the City filed a response and cross-exceptions. On July 17, 2012, the Association filed a response to the City's cross-exceptions. On July 17, 2012, the City filed objections to the Association's response. By letter of May 2, 2013, the Appeals Assistant notified the parties on behalf of the Board itself that it wished to hear oral argument on the issue of the Board's remedial authority with respect to peace officers in light of MMBA section 3511. Oral argument was heard before the full Board on June 13, 2013, after which the Board took the matter under submission.

By e-mail message of September 5, 2013, the City, through counsel, notified the Board that the parties had reached a global settlement agreement of all four cases and included a copy of the settlement agreement and the City Council's resolution authorizing the settlement. The City requested that the unfair practice charge in Case No. LA-CO-100-M be withdrawn with prejudice. By letter dated September 11, 2013, the Association, through counsel, confirmed that the parties had indeed reached a settlement and requested that the unfair practice charges in Case Nos. LA-CE-555-M, LA-CE-564-M and LA-CE-585-M be withdrawn with prejudice.

Both parties requested that their respective exceptions to the ALJ's proposed decision be withdrawn with prejudice, and the Association requested that its request for oral argument be withdrawn with prejudice.

The Board has the discretion to grant or deny requests to withdraw and dismiss cases pending before the Board itself. (PERB Reg. 32320, subd. (a)(2) [“The Board itself may . . . take such other action as it considers proper.”];² *State of California (Department of Personnel Administration)* (2010) PERB Decision No. 2152-S; *Grossmont-Cuyamaca Community College District* (2009) PERB Order No. Ad-380; *Oakland Unified School District* (1988) PERB Order No. Ad-171a; *ABC Unified School District* (1991) PERB Decision No. 831b.)

Based on the Board's review of the parties' requests and the entire record in this matter, the Board finds withdrawal of the unfair practice charges to be in the best interest of the parties and consistent with the purposes of the MMBA to promote harmonious labor relations. Accordingly, the Board grants the parties' requests to withdraw the unfair practice charges with prejudice.³

ORDER

The requests by the Lompoc Police Officers Association and the City of Lompoc to withdraw the unfair practice charges with prejudice Case Nos. LA-CO-100-M, LA-CE-555-M, LA-CE-564-M and LA-CE-585-M are hereby GRANTED.

Members Huguenin, Winslow and Banks joined in this Decision.

² PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

³ The parties' requests to withdraw their respective exceptions are subsumed within the withdrawal of their unfair practice charges. The Association's request to withdraw its request for oral argument is moot.