

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

ILLINOIS COUNCIL OF POLICE)
 Charging Party,)
)
 and)
)
VILLAGE OF CRESTWOOD,)
 Respondent.)

DATE OF FILING: May 11, 2020

AFFIDAVIT OF SERVICE

I, Richard F. Blass, state that I have served the attached CHARGE AGAINST THE EMPLOYER in the above-captioned matter on each of the parties listed below by electronic and US Mail as indicated below.

Mark H. Sterk, Esq.
ODELSON STERK, ET AL
3318 W. 95th Street
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Sharon Purcell
ILLINOIS LABOR RELATIONS BOARD
160 N. LaSalle Street, Ste. S-400
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Respectfully Submitted,

ILLINOIS COUNCIL OF POLICE

By: 
Richard F. Blass

Richard F. Blass, Esq.
RICHARD F. BLASS & ASSOCIATES, LLC
770 N. Church Road, Ste. H
Elmhurst, Illinois 60126
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Cook County Attorney No. 41274

ILLINOIS LABOR RELATIONS BOARD

- LOCAL PANEL:** e.g., County of Cook, City of Chicago, Chicago Transit Authority, Forest Preserve District of Cook County
- STATE PANEL:** e.g., State of Illinois, county governments, municipal governments, Regional Transportation Authority

DO NOT WRITE IN THIS SPACE
CASE NUMBER
DATE FILED

CHARGE AGAINST EMPLOYER

INSTRUCTIONS: In accordance with the Illinois Public Labor Relations Act, 5 ILCS 315 (2014), *as amended*, and the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Adm. Code §1200.20 and 1220.20, the following information is required. Submit an original and one (1) copy of this charge to the Illinois Labor Relations Board. If more space is required for any item, attach additional sheet(s), numbering items accordingly. This petition may be filed in either of the Board's offices or at ILRB.Filing@illinois.gov. Facsimiles are no longer accepted.

Illinois Labor Relations Board
801 South 7th Street, Suite 1200A
Springfield, Illinois 62703
(217) 785-3155

Illinois Labor Relations Board
160 North LaSalle Street, Suite S-400
Chicago, Illinois 60603-3103
(312) 793-6400

This agency is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under 5 ILCS 315 (2014), *as amended*. Disclosure of this information is **REQUIRED**. Failure to provide any information will result in this form not being processed.

BY STATUTE ONLY CHARGES FILED AND SERVED ON THE PARTIES WITHIN SIX (6) MONTHS OF THE DATE OF THE EVENT OR CONDUCT WHICH IS THE SUBJECT OF THE CHARGE WILL BE PROCESSED BY THE ILLINOIS LABOR RELATIONS BOARD.

1.	NAME OF EMPLOYER/DEPARTMENT (against whom charge is brought) Village of Crestwood, Department of Police	TELEPHONE NUMBER 708 385 5131
	STREET, CITY, STATE, ZIP 13840 S. Cicero Avenue, Crestwood, Illinois 60445	E-MAIL
2.	EMPLOYER REPRESENTATIVE Mark Sterk, Esq.	TELEPHONE NUMBER 708 424 5687
	STREET, CITY, STATE, ZIP 3318 W. 95th Street, Evergreen Park, Illinois 60805	E-MAIL msterk@odelsonsterk.com
3.	NAME OF CHARGING PARTY Illinois Council of Police	TELEPHONE NUMBER 630 832 6772
	STREET, CITY, STATE, ZIP 770 N. Church Road, Ste. H, Elmhurst, Illinois 60126	E-MAIL icops@sbcglobal.net
	JOB TITLE (at time of alleged unfair labor practice) Union - Certified Bargaining Unit Representative	
4.	CHARGING PARTY REPRESENTATIVE Richard F. Blass	TELEPHONE NUMBER 630 782 2000
	STREET, CITY, STATE, ZIP 770 N. Church Road, Ste. H, Elmhurst, Illinois 60126	E-MAIL rblass@blass-law.com

5. It is alleged that the above-named employer has engaged in (an) unfair labor practice(s) within the meaning of Section 10(a) subsection (4 & 1) and subsection (1) of the Illinois Public Labor Relations Act.

6. BASIS OF CHARGE (specify in detail: facts, names, addresses, sites, dates, etc.) (use attachments if necessary)

Date(s) of alleged wrongful action(s):

Thursday, April 30, 2020

Name(s) of individual(s) involved:

Respondent's attorney, Mark Sterk as Agent for the Village of Crestwood.

Location(s) of alleged wrongful action(s):

Via email.

Describe what happened:

Please see the attachment.

SUPPORTING DOCUMENTS (please include copies of any documents relevant to your charge)

The supporting documents filed with this charge will be considered part of the charge and will be served on the Employer.

7. RELIEF OR REMEDY SOUGHT BY CHARGING PARTY

Immediately reinstate the original agreement in Article VII section 4 of Collective Bargaining Agreement.

I have read the above petition and all attachments. The statements contained therein are true to the best of my knowledge and belief.

BY: _____

Signature of person filing petition

NAME: Richard F. Blass

TITLE: Attorney

DATE: May 11, 2020

The Charging Party and the Respondent have been in negotiations regarding a Collective Bargaining Agreement. On March 12, 2020, the Employer emailed their response to the Union's proposal. That document included an Article VII §4, Disciplinary Authority. Within that Article and section, the Employer agreed to the Union's proposal that "Employees may grieve suspensions in excess of three (3) days and termination through the grievance process..."¹ The Union's notes of that date reflect the same.² It should also be noted that at that time, only three (3) items remained open, with the rest of the Agreement agreed to including Article VII §4.

On March 19, 2020, the Union and the Employer conducted negotiations. The Union sent a document encompassing the remaining open issues, not including the already agreed upon Article VII §4 Disciplinary Authority.³

On April 30, 2020, the Employer notified the Union that they will no longer agree to submit discipline or terminations to the grievance process.⁴

The Respondent's refusal to include the parties' negotiated Article VII §4 regarding the submission of employee suspensions and terminations of employment to the grievance process language into the parties' agreement constitute a repudiation of the collective bargaining process and/or regressive bargaining.

Section 10(a)(4) of the Illinois Public Labor Relations Act provides, in pertinent part:

To refuse to bargain collectively in good faith with a labor organization which is the exclusive representative of public employees in an appropriate unit, including, but not limited to, the discussing of grievances with the exclusive representative.
5 ILCS 315/10(a)(4)

When an Employer's conduct demonstrates a disregard for the collective bargaining process, evidences an outright refusal to abide by a contractual term, or prevents the grievance process from working, that conduct constitutes repudiation and violates Section 10(a)(4) and (1) of the Act. *City of Loves Park v. Illinois Labor Relations Board State Panel*, 343 Ill. App. 3d 389, 395 (2nd Dist. 2003). The objective, rather than subjective, proof of the fact that there was an Agreement is in the Charging Parties Exhibits which clearly and unequivocally shows that the Article VII §4 of the Agreement was accepted. *Ill. Fraternal Order of Police Labor Council, 19 PERI ¶ 39 (IL LRB-SP 2003)* The Employer now refusing to abide by that agreement after executing Article VII §4 in writing is in bad faith. *City of Chicago*, 30 PERI ¶ 194 (IL LRB-LP 2014).

¹ See Charging Party's Exhibit No. 1 page 13, Article VII §4

² See Charging Party's Exhibit No. 2

³ See Charging Party's Exhibit No. 3

⁴ See Charging Party's Exhibit No. 4

Objectively, the March 12, 2020 proposal from the Employer included the Article VII §4 language. The Article XII §4 language was discussed and agreed to again at the March 19, 2020 bargaining session pursuant to the written proposal. It is this objective conduct that demonstrates that the parties reached a meeting of the minds to include the Article VII §4 language in the Agreement. The Employer left the Charging Party with an undisturbed understanding that the parties had agreed to incorporate the Article VII §4 language in the collective bargaining agreement, and it confirmed that understanding by submitting the tentative agreement to the Union: “RESPONSE: Agreed as modified.”⁵ *Bud’s Cooling Corporation and Bud Antle, Inc.*, 138 NLRB 596, 601 (1962)

The duty to bargain in good faith requires the parties to actively participate in negotiations with an open mind and a sincere effort and intention to actually reach an agreement. *County of Cook (Department of Central Services)*, 15 PERI ¶ 3008. The Board utilizes a “totality of the circumstances” test to determine whether a party bargained in good faith or was instead motivated by a bad faith desire to avoid reaching an agreement altogether. *Id.* Types of conduct that are indicative of a bad faith intent include delaying tactics, unreasonable bargaining demands, an employer’s implementation of unilateral changes involving mandatory subjects of bargaining, failure to designate a representative with sufficient bargaining authority, *withdrawal of previously accepted proposals*, and arbitrary scheduling of bargaining meetings. *Cnty. of Woodford and the Woodford Cnty. Sheriff*, 8 PERI ¶ 2019 (IL SLRB 1992) (emphasis added).

In addition, the National Labor Relations Board has held that bad faith may be inferred from a party’s introduction of significant new proposals late in the negotiations. *Yearbook House*, 223 NLRB 1456 (1976); see also *Board of Education, Granite City Community School District No. 9*, 19 PERI ¶ 175 (IL ELRB ALJ 2003) (citing *Yearbook House* in finding bad faith where employer engaged in regressive bargaining and repudiated tentative agreements).

A respondent engages in regressive bargaining when it effects substantive changes in tentative agreements that are less favorable to the charging party than the earlier agreed-to terms. *Vill. of Midlothian*, 29 PERI ¶ 125 (IL LRB-SP 2013); see also *Granite City Comm. School Dist. No. 9*, 19 PERI ¶ 175 (IELRB ALJ 2003). While the Charging Party is aware that the withdrawal of the agreed upon terms may not in and of itself establish the bad faith, in the instant case however, the Respondent did so without good cause after the Charging Party and Respondent agreed to them. *Vill. of Midlothian*, 29 PERI ¶ 125; *Mead Corp. v. NLRB*, 697 F.2d 1013, 1022 (11th Cir. 1983). It is the Charging Party’s contention that the Respondent’s regressive bargaining was done to “frustrate the bargaining process.” *Vill. of Midlothian*, 29 PERI ¶ 125; *Chicago Local No., 458-3M v. NLRB*, 206 F.3d 22 (D.C. Cir. 2000). The regression/repudiation occurred after the parties had already agreed to the Article VII §4 language as the attached Exhibits depict.

Finally, the repudiation/regressive bargaining of the Agreement comes suspiciously close to the initiating of a Complaint by the Illinois Labor Relations Board. The Complaint was issued on April 21, 2020 pursuant to 5 ILCS 315/10(1), (2) & (3).⁶ The Employer answered the

⁵ See Charging Party’s Exhibit No. 1 page 13 Article VII §4.

⁶ See Charging Party’s Exhibit No. 5

Complaint on April 29, 2020⁷ and sent the Charging Party notice of their repudiation of the Agreement the next day, April 30, 2020.⁸

Respectfully submitted,

ILLINOIS COUNCIL OF POLICE

By: 
Richard F. Blass

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⁷ See Charging Party's Exhibit No. 6

⁸ See Charging Party's Exhibit No. 4