

# *City of Albuquerque*

## **Legal Department**

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**Martin Chavez, Mayor**

**Robert M. White, City Attorney**

February 3, 2004

Paul Livingston, Esq.  
Attorney for the NMTU  
P.O. Box 250  
Placitas, NM 87045

Re: LB-03-31, New Mexico Transportation Union  
Violation of Collective Bargaining Agreement

Dear Counsel:

At the first hearing with the Labor Board in this matter, the Board requested that the parties confer regarding the specific issues to be addressed in this case and whether it was possible to consolidate any of these issues with the other cases NMTU has pending before the board.

Based on the complaint filed in 03-031, the issues you wish to have addressed by the board are:

1. Whether the City has failed to comply with the LMRO by refusing to comply with the alleged "binding interest arbitration provisions" of the Section 13(c) agreement.
2. Whether the provisions of LMRO § 3-2-18, requiring council approval of any multi-year contract constitutes a prohibited practice because it conflicts with LMRO § 3-2-9(C), which prohibits an elected or appointed official from attempting to influencing negotiations or interfere with the normal progress of negotiations.
3. Whether application of a financial limit or guideline constitutes a prohibited practice.
4. Whether the City has failed to permit employees to present their cases to the guidelines committee.

5. Whether the Mayor's bonus plan constitutes prohibited interference with the negotiating process.

I have also reviewed the complaints filed by the NMTU that remain pending before the Labor Board. I have identified the following complaints which may be related to the present matter and which we may wish to consider consolidating before the board:

1. LB-97-18: Although you have stated that this is not presently incorporated in LB-03-31, you have also alleged that no hearing has been held by the Board on this complaint per the transcript of hearing you attached to the complaint. As LB 97-18 also alleges that the City's practice of establishing guidelines for negotiations is an unfair practice, LB-97-18 raises an issue identical to one raised in LB-03-31.

2. LB-99-14: LB-99-14 alleges that the actions of the Labor Board in declaring an impasse were unreasonable. The claim also alleges that the City's actions in setting a guideline for negotiations and failure to agree to 13(c) arbitration constitute prohibited practices.

3. LB-00-01: LB-00-01 references LB-97-18, and again alleges that the City has failed to comply with the provisions of the 13(c) agreement. The complaint also alleges that the City's actions in giving reclassification pay raises violated the duty to bargain over wages and interfered in the normal course of negotiations.

4. LB-00-12: LB-00-12 alleges that the proposal made in 2000 that the union agree to drop all pending 13(c) litigation as part of an offer made by the City during contract negotiations constituted an unfair practice. This case alleges violations of the 13(c) agreement, as well as alleging that the proposal constituted an improper attempt to bypass the normal course of negotiations, refusal to negotiate in good faith and interfered with the "selection of Local 1745's representatives."

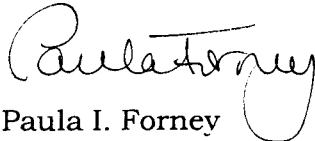
5. LB-01-06: In LB-01-06 the Union alleged that a change in regular shifts and work duties that was implemented without negotiation constituted a prohibited practice. In addition, this complaint alleged that the City's failure to engage in 13(c) arbitration constituted bad faith, although the complaint is not entirely clear as to what issue the union wished to submit for 13(c) arbitration.

At this time, I am willing to agree to consolidate the 13(c) issues in the present matter with the pending 13(c) issues in the other matters. I also plan to address the concerns with the practice of setting a guideline in the present action as well. As the remaining issues raised in the outstanding cases are all fact specific, I do not believe that they are suitable for consolidation with the present matter.

January 28, 2004  
Paul Livingston  
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Please let me know as quickly as possible if you agree with my statement of the issues in this matter and if you will agree to address the issues of 13(c) arbitration and the setting of negotiating guidelines in the context of the present case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paula I. Forney".

Paula I. Forney  
Assistant City Attorney