

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. CC-008-12

(REPRESENTATION PETITION)

OREGON AFSCME COUNCIL 75,	)	
	)	
Petitioner,	)	
	)	
v.	)	RULINGS,
	)	FINDINGS OF FACT,
WASHINGTON COUNTY,	)	CONCLUSIONS OF LAW,
	)	AND ORDER
Respondent.	)	
_____	)	

The Board heard oral argument on April 1, 2013, on Petitioner's objections to a Recommended Order issued by Administrative Law Judge (ALJ) Peter A. Rader on February 22, 2013, following a hearing on August 6, 2012, in Salem, Oregon. The record closed on August 27, 2012, following receipt of the parties' post-hearing briefs.

Jennifer K. Chapman, Legal Counsel, Oregon AFSCME, Council 75, Salem, Oregon, represented Petitioner.

Adam S. Collier, Attorney at Law, Bullard, Smith, Jernstedt & Wilson, Portland, Oregon, represented Respondent.

On May 30, 2012, Oregon AFSCME Council 75 (Petitioner or Union) filed this petition seeking to certify a bargaining unit without an election under ORS 243.682(2) and OAR 115-025-0000(1)(c). The petition proposed the formation of a new bargaining unit comprised of

“[a]ll positions requiring a state appraiser certification within Washington County as a condition of employment, including, but not limited to, Appraiser I, Appraiser II, Sr. [Senior] Appraiser, and NATS PDT.”<sup>1</sup>

Washington County (County) filed timely objections to the petition, asserting that (1) the new unit would unnecessarily fragment the County’s workforce and create a small bargaining unit that shares a community of interest with other County employees who are not included in the petition; and (2) the senior appraisers are supervisory employees and should be excluded from representation.

The issues presented for hearing are:

1. Is the proposed unit appropriate under ORS 243.682 and OAR 115-025-0050(2)?
2. If the proposed unit is appropriate, are the senior property appraisers excluded from representation in the unit as supervisory employees under ORS 243.650(23)?

### RULINGS

The rulings of the ALJ were reviewed and are correct.

### FINDINGS OF FACT

1. The County is a public employer governed by an elected Board of Commissioners. The County has designated five “service areas” to inform the general public regarding the services that it provides: 1) General Government; 2) Public Safety; 3) Land Use, Housing & Transportation; 4) Health & Human Services; and 5) Culture, Education & Recreation. Within those five service areas, the County has 20 departments. The County employs approximately 1,900 regular and part-time employees, of which around 580 are represented by five labor organizations.

2. The Petitioner is a labor organization and the designated representative of a bargaining unit of approximately 55 County employees, who work in the Department of Community Corrections in the Public Safety service area (regular and on-call residential services monitors and residential counselors). Its petition seeks to form a new bargaining unit, without an election, of appraisers, who work in the Assessment & Taxation Department in the County’s General Government service area. The employees in the proposed unit are required to have State appraiser certification as a condition of employment.

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<sup>1</sup>Before the hearing, the parties clarified and agreed that the NATS PDT position in the original Petition applied to the Appraisal Data Analyst position. We include the Appraisal Data Analyst position in our references to “appraisers” in this order.

3. The other four bargaining units in the County are represented by: the Oregon Nurses Association (ONA), with approximately 22 bargaining unit members (nurses) in the Department of Health & Human Services; the Federation of Oregon Parole and Probation Officers (FOPPO), with approximately 35 members (parole and probation officers) in the Department of Community Corrections; the Teamsters, Local 223, with approximately 120 members (maintenance and technical employees) in the Department of Land Use & Transportation; and the Washington County Police Officers Association, with approximately 350 strike-prohibited members (police and correctional officers) in the Department of the Sheriff in the County's Public Safety service area.

#### Appraiser Position Descriptions, Duties, and Wages

4. The proposed bargaining unit would include 29 currently unrepresented appraisers working in four classifications: 25 Appraisers I and II, 3 Senior Appraisers, and 1 Appraisal Data Analyst.

5. All of the appraisers work in the Appraisal Division (Division) of the Department of Assessment & Taxation (Department). The Division has approximately 44 employees and is responsible for the appraisal of real property and mobile homes; preparation of ratio studies; explanation and defense of appraisals; annexation petitions; maintenance of personal property records and values; controlling exemptions; and a cyclical reappraisal program.

6. The appraisers work in an office setting in the same area on the same floor of a County building, unless they are assigned to a special project elsewhere.<sup>2</sup> They spend approximately 35 to 50 percent of their time working in the field visiting appraisal sites, to which they drive their own cars and receive reimbursement. A current State of Oregon driver's license is a requirement of the job.

7. Appraisers receive the same medical, retirement, sick leave, insurance, and vacation benefits as all other unrepresented employees, and they are subject to the same personnel rules as those other unrepresented employees. They come in contact with the public and have a casual business dress code similar to other County employees. They occasionally interact with County cartographers, geographical information systems (GIS) analysts, and other Department personnel. On special projects, appraisers may work closely with other Department employees as part of a team.

8. Appraisers have three blackout periods throughout the year during which they may not take vacation leave due to the workload. No appraiser has transferred out of the Department into another County position.

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<sup>2</sup>Adrienne Wilkes ordinarily works as an appraisal data analyst, but has temporarily taken on a special assignment in the Department. Her replacement in the position of appraisal data analyst works in the same area as the other appraisers.

9. Real property appraisals in the State must be signed by a certified property appraiser, and all of the classifications in the proposed unit carry the same State appraiser certification requirement. To maintain their certification, appraisers are required to have 30 hours of continuing education every two years.<sup>3</sup>

#### Appraisal Division Manager

10. There are two levels of management in the Division, which is consistent with other divisions and departments. The Division Manager's duties primarily include managing, directing, and coordinating the activities of the Division. The position exercises direct supervision over professional, technical, and administrative support staff and is also required to have State certification as a property appraiser. The monthly salary range is between \$7,382.99 and \$8,971.76.

#### Supervisor Appraisers

11. There are three Property Appraisal Supervisors who report to the Division Manager. They have direct supervision over staff and have the added responsibility of planning, organizing, and managing the day-to-day residential, commercial, industrial, personal property, and farm appraisal functions of the Division. They sign off on appraisals. Their monthly salary range is between \$5,727.20 and \$6,836.56.

#### Senior Appraiser

12. The Senior Property Appraiser is a lead worker on assigned appraisal projects and overall operations, and exercises functional and technical supervision over assigned professional, technical, and administrative support staff, but has no direct supervisory authority over employees, which distinguishes it from the supervisor appraiser position. The Senior Appraiser acts in an advisory capacity on project priorities, assignments, and training; recommends the filling of vacant positions; and provides input on hiring decisions and performance evaluations. The senior appraiser is not the ultimate decision-maker in any of those areas. Employee performance evaluations are signed by the supervisor appraiser. Senior appraisers attend management meetings, but are sometimes excluded from all or part of those meetings. The hourly compensation is between \$27.98 and \$34.01.

13. On occasion, Senior Appraisers perform some limited functions of supervisory appraisers, including signing permission slips for medical appointments, attending the same training as supervisors, and receiving absence request forms from employees.

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<sup>3</sup>Other unrepresented County employees also have certification/licensure and continuing education requirements as conditions of employment.

### Appraisal Data Analyst

14. The Appraisal Data Analyst's primary duties are to compile, edit, and analyze property sales and all other market-based variables affecting property appraisal and valuation methods; prepare annual sales ratio studies; and prepare appraisal reports as needed. The Analyst also prepares presentations for the Board of Equalization, the Department of Revenue, and the Tax Court. The position has no supervisory authority and receives general supervision from the Division manager. The hourly compensation is between \$27.98 and \$34.01.

### Property Appraiser II

15. The Appraiser II position is the journey level class within the property appraiser series. It has lead responsibility over the Appraiser I position and other non-supervisory staff. The position's primary responsibilities include appraising residential, farm, commercial, industrial, machinery and equipment, and personal property for tax assessments. An Appraiser II also inspects land, buildings, residences, and miscellaneous improvements for appraisal; collects and analyzes real estate market information to establish market value appraisals; analyzes zoning regulations; reviews applications when qualifying property for special assessments; appraises manufactured homes; prepares reports for the Board of Property Tax Appeals; and answers inquiries from the public concerning appraisals, assessments, and procedures. It requires State certification as a property appraiser as a condition of employment. The position is supervised by the appraisal supervisor, and the hourly compensation is between \$25.36 and \$30.83.

### Property Appraiser I

16. The Appraiser I is an entry-level position with similar duties to those of an Appraiser II, except at a lower level of expertise. The Appraiser I is not expected to exercise the same kind of independence or judgment as an Appraiser II. The position is primarily responsible for appraising and determining value of real or personal property, classifying properties, preparing estimates of property values for assessment of *ad valorem* taxes, compiling market information, preparing appraisal reports, and answering owner inquiries. The hourly compensation range is between \$21.87 and \$26.58.

### Other Management Position Descriptions, Duties, and Wages

17. The GIS Supervisor is primarily responsible for planning, organizing, and supervising GIS operations and personnel and performs a variety of technical tasks. No professional certification is required of the position, which exercises direct supervision over assigned technical and administrative support staff. The monthly wage is between \$5,098.30 and \$6,194.25.

18. The Tax Collections Supervisor is primarily responsible for planning, organizing, and supervising the personnel, and activities involved in the collection of real and personal property. The position has full supervisory responsibilities. The monthly salary range is \$5,355.01 to \$6,507.67.

19. The Archivist and Records Supervisor is primarily responsible for planning, organizing, and supervising the records management functions of the County, and ensuring records compliance with Federal, State, and local statutes, regulations, and rules. The position exercises direct supervision over assigned administrative support staff. The monthly salary is \$5,098.30 to \$6,194.25.

20. The Cartography and Records Manager is primarily responsible for managing, directing, and coordinating the activities of the Cartography Division. No specialized certification is required of the position, which exercises direct supervision over technical and administrative support staff. The monthly salary range is between \$6,524.17 and \$7,927.36.

21. The Senior Administrative Specialist position is primarily responsible for providing a variety of administrative support of considerable complexity requiring thorough knowledge of the organization. It exercises direct supervision over assigned administrative support staff. The hourly wage is between \$20.13 and \$24.47.

22. The Data Control Coordinator position is primarily responsible for coordinating information for processing activities, including the compilation of input and retrieval of data. The position has direct supervisory authority over employees operating on-line computer terminal equipment, facilitates the training of employees in the section, researches program modifications, and prioritizes projects to meet data processing needs. The hourly compensation is between \$26.64 and \$32.38.

#### Other Division Non-Management Positions

23. The GIS Analyst position is primarily responsible for providing professional-level support to end users of the GIS, including analyzing statistics and spatial data to create diagrams, preparing illustrations and maps, developing applications using GIS technology, and recommending programs based on the results of the data analysis. It is a lead position that provides consultative advice on GIS methods, but it does not have supervisory authority and requires no specialized certification. The hourly wage is between \$30.89 and \$37.55.

24. The Administrative Specialist II position is a generic position in the County and may be assigned to any department. The position provides administrative support of moderate complexity, requiring knowledge of the work unit's procedures and operating details; performs skilled word processing; prepares correspondence using independent judgment in content and style; and has considerable public contact. This position may be supervised by a senior administrative specialist. The hourly wage is between \$18.23 and \$22.16.

25. The Personal Property Tax Auditor position performs site inspections, collects data, and analyzes financial statements and accounting records of businesses to assure compliance with personal property assessment. The position may exercise functional and technical supervision over assigned technical support staff, but does not include any direct supervisory duties. The hourly compensation is between \$25.36 and \$30.83.

## Other Counties

26. Appraisers employed by Multnomah County are members of a bargaining unit of approximately 2,800 employees. Multnomah County has approximately nine different bargaining units. Appraisers employed by Clackamas County are members of a bargaining unit of approximately 760 employees. Clackamas County has approximately eight different bargaining units. In both counties, other employees are in the bargaining units with the Appraisers.

## History of Organizing Efforts in the County

27. As set forth above, the County currently recognizes five bargaining units with five different labor organizations (one of which is the Petitioner).

28. There have been five petitions previously presented to this Board.

- a. In 1987, this Board dismissed the Union's petition to represent clerical employees in the Department of Safety. *Oregon AFSCME Council 75 v. Washington County Department of Public Safety (Sheriff's Office)*, Case No. RC-27-87, 10 PECBR 172 (1987).
- b. In 1992, this Board dismissed the Union's petition for a department-wide unit in the County's Department of Housing Services. *Oregon AFSCME Council 75 v. Washington County*, Case No. RC-57-92, 14 PECBR 271 (1993).
- c. In 1993, this Board dismissed a petition filed by another union that sought to represent a bargaining unit composed solely of employees in the County's Land Development Services Division, Building Services Section. *United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, Local Union No. 290 v. Washington County*, Case No. RC-20-93, 14 PECBR 679 (1993).
- d. In 2004, this Board certified a unit of 22 residential counselors and residential services monitors at the County's Community Corrections Center. *Oregon AFSCME Council 75 v. Washington County*, Case No. RC-30-03, 20 PECBR 745 (2004).
- e. In 2011, the Union filed a clarification petition seeking to add on-call residential services monitors to the existing unit of residential counselors and residential services monitors. *Oregon AFSCME Council 75 v. Washington County*, Case No. UC-21-11. The parties entered into a unit clarification consent election agreement and the on-call employees were added to the existing unit.

29. Appraisers have never previously attempted to form their own bargaining unit.

### CONCLUSIONS OF LAW

1. This Board has jurisdiction over the parties and the subject matter of this dispute.
2. The proposed bargaining unit is not appropriate.

### DISCUSSION

The Petitioner seeks to form a new bargaining unit without an election consisting of approximately 29 unrepresented appraisers working in four job classifications. It argues that the appraisers' community of interest, wages, hours, and working conditions, as well as the desires of the employees and the history of collective bargaining, warrant finding the proposed unit appropriate. The County argues that the proposed unit: (1) is inconsistent with this Board's longstanding preference for the largest possible appropriate bargaining unit, particularly as that preference relates to the County; (2) conflicts with the history of collective bargaining between the County and the various labor organizations that currently represent some of the County's employees; (3) does not have a sufficiently distinct community of interest from other unrepresented employees; and (4) would unduly fragment the workforce.<sup>4</sup> We agree with the County that the proposed unit is inappropriate, reasoning as follows.

#### Standards for Decision

Under ORS 243.682(2)(a), when a labor organization, acting on behalf of the employees, files a petition alleging that a majority in a unit appropriate for the purpose of collective bargaining wishes to be represented by a labor organization, the Board shall investigate the petition. If this Board finds that the unit is appropriate for representation, we may certify the labor organization as the exclusive representative without an election.

In deciding whether a proposed bargaining unit is appropriate, this Board "consider[s] such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees." ORS 243.682(1)(a); *see also Klamath Community College Faculty Association, OEA/NEA v. Klamath Community College*, Case No. CC-03-09, 23 PECBR 484, 496 (2010). The list of statutory factors is not exclusive, and we have, along with the listed factors, weighed our preference for certifying the largest possible appropriate unit. *Klamath Community College*, 23 PECBR at 497; *OPEU v. Dept. of Admin. Services*, 173 Or App 432, 436, 22 P3d 251 (2001); *U of O Chapter, AFT v. U of O*, 92 Or App 614, 618-19, 759 P2d 1112 (1988). In determining what constitutes an appropriate bargaining unit, we have discretion to decide how much weight to give each relevant factor in any particular case. *OPEU*, 173 Or App at 436 (2001); *U of O*,

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<sup>4</sup>The County also argues that the senior property appraiser is a supervisory employee and ineligible for representation under the Public Employee Collective Bargaining Act (PECBA). Because we find the proposed unit inappropriate, we do not address that argument.

92 Or App at 617-18. Finally, we may determine a unit to be appropriate, even though some other unit might also be appropriate. ORS 243.682(1)(a); *OPEU*, 173 Or App at 436; *Klamath Community College*, 23 PECBR at 497. With those principles in mind, we turn to the appropriateness of the proposed unit.

### Community of Interest

The term “community of interest” includes such factors as “similarity of duties, skills, benefits, interchange or transfer of employees, promotional ladders, [and] common supervisor \* \* \*.” OAR 115-025-0050(2). There is no doubt that the petitioned-for appraisers share a strong community of interest among themselves. Specifically, the appraisers perform work in a narrow field within the Department. The appraisers also share licensure and continuing education requirements, as well as similar job duties, promotional opportunities, and common supervision.

The appraisers also, however, share a community of interest (albeit not as strong) with other unrepresented County employees, including other non-clerical employees in the Department. Although the appraisers’ interaction with those employees is somewhat limited, the interaction is necessary in meeting the appraisers’ job duties. Specifically, the appraisers incorporate the work of other Department employees, and vice-versa. Moreover, the record establishes that other unrepresented County employees also have licensure and continuing education requirements.

We note, however, that the unrepresented non-appraisers do not share common supervisors with the appraisers, and the promotional ladders available to appraisers and other employees are distinct. Moreover, the record does not establish interchange or transfers between the appraisers and other unrepresented employees.

### Wages, Hours, and other Working Conditions

Appraisers in the proposed bargaining unit are compensated hourly, which is typical of similar unrepresented classifications in the County. Entry-level appraisers’ salaries range from \$21.87 per hour to \$26.58 per hour, and the Appraiser II salaries range from \$25.36 per hour to \$30.83 per hour. The salary range of Senior Appraisers and the Appraisal Data Analyst is \$27.98 to \$34.01. Employees in the proposed unit receive the same benefits, including medical, dental, insurance, retirement, vacation, and sick leave, as all other unrepresented employees in the County, and they are, with limited exceptions noted herein, subject to the same personnel rules and policies.

The Department has its own dress code and travel policy, which applies to appraisers and other unrepresented Department employees. Appraisers work in the same office, except when they are assigned to special projects and temporarily relocate. Appraisers also work on the same floor as Department employees in the Cartography Division, and they work in the same building as other Department employees.

Appraisers spend approximately 35 to 50 percent of their time working independently in the field, to which they drive their own vehicles. The record does not establish that other unrepresented Department or County employees spend comparable amounts of time in the field.

Appraisers are not permitted to flex their time, but that is not typically permitted by the County. Appraisers have a unique restriction on vacation leave, which includes three blackout periods during the year, during which they cannot take vacation leave.

### History of Collective Bargaining

The appraisers have never been represented, but, as set forth above, the County has a history of collective bargaining with four different labor organizations (including the Union) representing five different bargaining units.

### Desires of Employees

The Petitioner has presented a sufficient showing of interest to demonstrate that the proposed unit of employees wish to form a new bargaining unit consisting only of appraisers.

### The Largest Possible Appropriate Unit/Undue Fragmentation

As set forth above, in determining whether a proposed unit is appropriate, this Board has long weighed a preference for certifying the largest possible appropriate unit. *Klamath Community College*, 23 PECBR at 497. Thus, we avoid splitting an employer's workforce into a number of smaller bargaining units because such an action is contrary to many of the policies underlying the PECBA. *Federation of Oregon Parole and Probation Officers v. Clatsop County and AFSCME Local 2746*, Case No. RC-009-12, 25 PECBR 174, 183 (2012). Specifically, smaller bargaining units contravene the PECBA policy of creating "greater equality of bargaining power between public employers and public employees." *Id.* (quoting ORS 243.656(3)). Additionally, more bargaining units increases the potential for labor disputes that could result in work stoppages and the disruption of public services. *Id.* Finally, unduly fragmenting the workforce into excessive bargaining units overly burdens employers if they have to engage in bargaining sessions for the many splinter groups on a round-robin basis. *Id.*

Here, the Union does not contend that the proposed unit is the largest possible appropriate unit. It asserts, however, that our preference for larger bargaining units should not be applied too rigidly.

We agree with the Union that our preference for certifying the largest possible appropriate unit should not be blindly applied. Rather, it is one factor, along with the other designated statutory factors, that we weigh in determining the appropriateness of a proposed unit.<sup>5</sup> Here, however, the

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<sup>5</sup>That preference is given even stronger weight in the context of a petition that seeks to "carve out" a group of employees from an existing larger unit. *See, e.g., Oregon Workers Union v. State of Oregon, Department of Transportation and Service Employees International Union Local 503, Oregon Public Employees Union*, Case No. RC-26-05, 21 PECBR 873, 885 (2007) (a labor organization may "carve out" only a portion of an existing bargaining unit where (1) the proposed unit has a community of interest that is "clearly distinct" from the existing unit, or (2) "compelling reasons" warrant creation of a "splinter bargaining unit"). As the Union correctly notes, our concerns regarding undue fragmentation are particularly heightened in that context.

Union has proposed a particularly small unit that excludes even other similarly-situated non-clerical employees who work in the Department on the same floor. Moreover, the work of those other non-clerical Department employees overlaps in meaningful ways with the work of the appraisers.<sup>6</sup> When weighing the “largest possible appropriate unit” factor along with 1) the shared community of interest between appraisers and other professional (*i.e.*, non-clerical) employees in the Department (as well as some other professional County employees), and 2) the wages, hours, and working conditions of the appraisers when compared to other Department and County employees, we conclude that the proposed unit is not appropriate.

In reaching this conclusion, we recognize, as we have previously, that in exercising our discretion as to the appropriateness of a proposed unit, “we sometimes must strike a balance between \* \* \* employee free choice against the need to establish and maintain stable labor relations and to equalize bargaining power.” *Oregon Workers Union*, 21 PECBR at 889. This case represents a situation where that balance tilts, albeit slightly, against certifying the proposed unit.

Additionally, we distinguish three cases relied on by the Union in arguing that the proposed unit should be certified: *Laborers International Union of North America, Local 320 v. City of Keizer*, Case No. RC-37-99, 18 PECBR 476, 484 (2000); *Clatsop County*, 25 PECBR at 174; and *Washington County*, 20 PECBR at 745.

In *City of Keizer*, this Board certified a bargaining unit of eight utility workers, even though the employer employed 21 unrepresented employees. In doing so, we reasoned that the utility workers all performed work outside, whereas the other unrepresented employees worked inside. 18 PECBR at 484. We further reasoned that the utility workers’ department was “physically separated and operate[d] independently from” other departments. *Id.* Moreover, we explained that our analysis of undue fragmentation considers “the size of the potential units and the occupational groupings that would result.” *Id.* Applying that consideration in *City of Keizer*, we reasoned that certifying the proposed unit would not unduly fragment the workforce because the employer would only be required to bargain with two bargaining units and, in the future, *at most*, three bargaining units. *Id.* at 484-85.

Here, in contrast to *City of Keizer*, the work of the appraisers is not physically separate from the other unrepresented employees in the Department. Moreover, the proposed unit does not provide us with a meaningful way of excluding other non-clerical Department employees, who also share a notable community of interest with the appraisers. Additionally, this case does not present a situation where we could have some confidence that, if we certified the proposed unit, potential future units would be relatively limited. Therefore, we distinguish *City of Keizer*.

We turn to *Clatsop County*, where we agreed that it was appropriate to “carve out” a unit of five Adult Parole and Probation Officers (PPOs) from an existing unit of 26 employees in that county’s Community Corrections-Sheriff’s Department. In reaching that decision, we found that

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<sup>6</sup>For its part, in oral argument, the County acknowledged that it was a “good question” as to whether a department-wide unit, excluding “Countywide” clerical employees, would be an appropriate unit. The County further agreed that such a Department unit would be “more appropriate” than the proposed unit.

the PPOs *lacked* a community of interest with other Sheriff's Department employees, in part because the primary duty of the PPOs was to rehabilitate released offenders, whereas the primary duty of the Sheriff's Department Deputies was to arrest suspects and maintain custody of convicted individuals. 25 PECBR at 184. That determination was consistent with this Board's reasoning in *Federation of Oregon Parole and Probation Officers v. Polk County Community Corrections*, Case No. RC-71-88, 11 PECBR 667 (1989).

Moreover, in *Clatsop County*, we further found other compelling reasons to certify the proposed small unit of PPOs. Specifically, we found that this Board had historically considered PPOs to be a small group of professional employees who constituted a "craft" for collective bargaining purposes. 25 PECBR at 185 (citing *Federation of Oregon Parole and Probation Officers v. Lane County and AFSCME Local 2831*, Case No. RC-10-05, 21 PECBR 235, 241 (2006); *Polk County*, 11 PECBR at 690).

Here, unlike *Clatsop County*, the appraisers do not *lack* a community of interest with other non-clerical Department employees or even some other professional County employees outside the Department. Moreover, this Board has not historically considered appraisers to be a traditional "craft" unit for purposes of collective bargaining. Consequently, we consider *Clatsop County* inapposite.

Finally, in *Washington County*, which notably involves the same employer as this matter, we found that a proposed unit of all regular employees in the County's Community Corrections Residential Services was not appropriate. Specifically, based on prior orders, we concluded that including clerical employees ("administrative specialists") in a departmental unit would inappropriately fragment those County-wide clerical employees. 20 PECBR at 756.

That conclusion, however, did not end our inquiry. Because this Board has the authority, after concluding that a proposed unit is inappropriate, to then determine whether a unit contained within a petition is appropriate, we next considered whether the remainder of the proposed departmental unit (*i.e.*, all Community Corrections Center (CCC) employees except the clericals) would be appropriate. *Id.* The County contended that an appropriate unit must also include certain employees from a different department (the Juvenile Department). We disagreed with the County's contention, reasoning that the CCC employees worked exclusively with adult offenders, whereas the Juvenile Department employees worked exclusively with juveniles. *Id.* Moreover, the CCC employees and Juvenile Department employees worked at different facilities and did not interact on the job; the employees were also administratively divided under separate departments. *Id.* at 756-57. Under those circumstances, we found that a distinctive community of interest existed in a CCC unit (excluding clerical employees), and that certifying that unit was "consistent with the County's history of functional organizing [because] it include[d] all strike-permitted personnel working with adult offenders." *Id.* at 757.<sup>7</sup>

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<sup>7</sup>We noted that we had previously determined that CCC residential services monitors should be excluded from a strike-prohibited unit. *Id.* at 757 n 7.

Here, the proposed unit excludes clerical employees, an exclusion that is consistent with our prior decisions regarding this employer. *Id.* at 753-56. However, unlike the more recent determination concerning the County's CCC employees, this proposed unit is not a departmental unit that excludes only the clerical employees. Rather, this proposed unit is a fragment of a non-clerical departmental unit that also excludes other Department employees who share a community of interest with the appraisers.

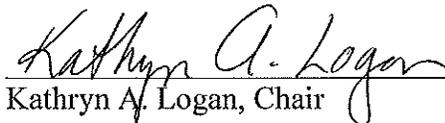
Moreover, in our *Washington County* "CCC" case, this Board determined that there was a distinctive community of interest shared by only the CCC employees. Here, in contrast, we do not find that the appraisers share a similarly distinctive community of interest, particularly as relative to other non-clerical employees in the Department. Unlike our "CCC" case, the appraisers here do not work in a separate building away from other non-clerical Department employees. Additionally, the appraisers and other non-clerical Department employees interact with each other in meaningful ways necessary to fulfill their respective job duties; such interaction was lacking in the "CCC" case. Consequently, we do not agree that our *Washington County* "CCC" case requires a conclusion that this proposed unit is appropriate.

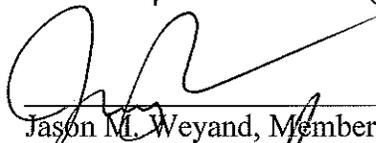
Consequently, for the foregoing reasons, we conclude that the proposed bargaining unit is inappropriate, and we will dismiss the petition.

ORDER

The petition is dismissed.

DATED this 26 day of April, 2013.

  
Kathryn A. Logan, Chair

  
Jason M. Weyand, Member

  
Adam Rhynard, Member

This Order may be appealed pursuant to ORS 183.482.