

**BEFORE THE EMPLOYMENT RELATIONS BOARD  
FOR THE STATE OF OREGON**

**PORTLAND POLICE ASSOCIATION,**

**Complainant,**

**v.**

**CITY OF PORTLAND,**

**Respondent.**

**Case No. UP 05-10**

**CONSENT ORDER**

**I. STATEMENT OF THE CASE**

In February 2010, Complainant Portland Police Association ("PPA" or "Association") filed an unfair labor practice complaint against Respondent City of Portland ("City") alleging violations of ORS 243.672(1)(g). The parties have agreed to settle this matter by entry of this consent order, subject to Board approval. The parties agree to waive all further proceedings in this matter, including the filing of an answer, a hearing before the Board, and judicial review of this consent order. The signatories warrant that they are authorized by their respective principals to sign the stipulation and waive reading of the Administrative Procedure Act rights (ORS 183.413). The parties further represent that the statements in this stipulation of fact are accurate and constitute all of the evidence that either party wished to present to the Board.

**II. STIPULATED FACTS**

1. The PPA is a labor organization as defined by ORS 243.650(13).
2. The City of Portland is a public employer as defined by ORS 243.650(20).

3. The allegations arose out of a grievance filed by the Association alleging that on or about June 23, 2009, the City had changed its longstanding past practice in the payment of certain retirement benefits under the Fire and Police Disability and Retirement Fund Charter (Chapter 5 of the Portland City Charter), and that such change violates Article 3 of the PPA Agreement.

4. On or about February 10, 2010, the City refused to process the grievance, taking the position that the grievance was not arbitrable because the acts of the FPDR Board are not the City's acts for purposes of the Public Employee Collective Bargaining Act, and because there is no duty to bargain over unlawful subjects.

5. The parties' disagreement over whether the City's change in payment of retirement benefits to FPDR members violates Article 3 of the collective bargaining agreement is subject to arbitration under Article 3.1 of the PPA agreement and the City has subjected this dispute to arbitration under Article 22.

### III. STIPULATED CONCLUSIONS OF LAW

1. The Board has jurisdiction over these parties and the subject matter.
2. The City of Portland violated ORS 243.672(1)(g) by its refusal to arbitrate over the change in the alternate payee rule for FPDR retirees.

### IV. STIPULATED ORDER

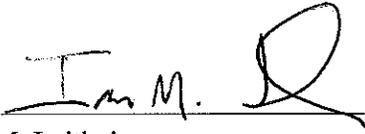
1. The City violated ORS 243.672(1)(g) by its initial refusal to process the grievance.
2. The parties will pay their own representation costs.

3. The City will reimburse the Association's filing fee.

PORTLAND POLICE ASSOCIATION

CITY OF PORTLAND

By:   
Anil S. Karia  
Tedesco Law Group  
3021 NE Broadway  
Portland, OR 97232  
Attorney for Complainant

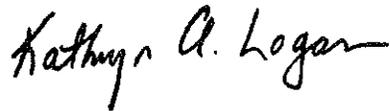
By:   
Ian M. Leitheiser  
Deputy City Attorney  
1221 SW 4th Ave., Ste 430  
Portland, OR 97204  
Attorney for Respondent

9.12.14  
Date

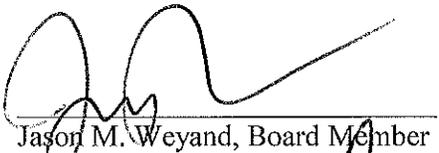
9-15-14  
Date

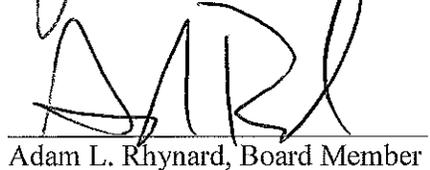
This consent order is hereby approved and adopted this 18 day of September, 2014

FOR THE EMPLOYMENT RELATIONS BOARD



Kathryn A. Logan, Chair

  
Jason M. Weyand, Board Member

  
Adam L. Rhynard, Board Member