

Walters
Workers
United

**WALTERS
WORKERS
UNITED**

AFSCME COUNCIL 67

FOR THE BENEFIT OF ALL

NLRA Coverage / Jurisdiction of NLRB

NLRA covers private industry only. The NLRB does not have jurisdiction over public entities or public corporations. 29 U.S.C. sec. 152(2).

The Supreme Court defined a public entity in *Hawkins County*, the test asks if the entity is:

- (1) created directly by the state or local government, so as to constitute departments or administrative arms of the government; OR
- (2) administered by individuals who are responsible to public officials or to the general electorate?

If the answer to either question is “yes”, then the NLRB lacks jurisdiction.

Walters' Status

Walters was established and created by City Ordinance and confirming state legislation in 1933 to administer, as the City's agent, City property.

The City exerts authority in three ways: as ex officio board members, through city ordinances not in conflict with state law, and financial support.

Thus "Prong 1" of *Hawkins County* is clearly satisfied.

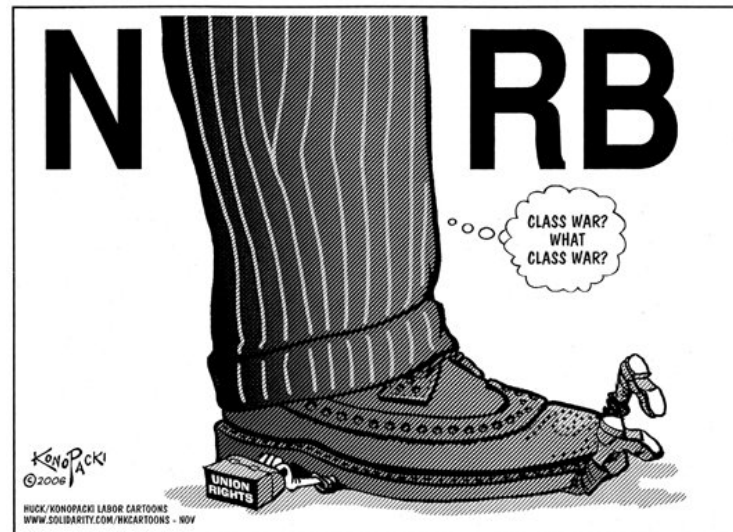
Walters was established by statute and ordinance to serve as the agent of the City of Baltimore in fulfilling a municipal purpose.

"The Walters' is a "public institution" and "its art is owned by the public," as is its property, meaning owned by the city.



~~NLRA~~

Why Does Walters' Management Insist on an NLRB Election?



Clear Path Forward

Voluntary recognition agreements are common and typical.



Particularly common in public and non-profit sector.



There are many ways to have an election without the NLRB, through a private election agreement.



Some venues include:

- Federal FMCS
- American Arbitration Association
- Baltimore Labor Commissioner
- Other officials, elected or otherwise
- Anyone else the parties agree to

City of Baltimore has used card check

2. The City shall recognize an Exclusive Representative to represent the interests of all Personal Care Providers. To secure recognition as the Exclusive Representative of Personal Care Providers, a requesting party shall demonstrate through individually-signed authorizations, not more than twelve (12) months old, that the personal care providers have authorized it to be their representative in dealings with the City. Upon receipt of a request for recognition, the requesting party and the City shall arrange for a neutral third party to examine the written authorizations to determine if the majority requirement (50%

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plus one) has been met. The neutral third party shall issue a written certification of result.

3. If the requesting party has achieved majority status, the City shall recognize the requesting party as the Exclusive Representative immediately upon delivery to the City of the certification of result by the neutral third party.

Many Examples of card-check and election agreements in non-profit, government and other institutions...

The Museum of Contemporary Art, Los Angeles

The Walker Art Center, Minneapolis

The Shed, NYC

Brooklyn Museum, NYC (unit from 1974)

Kansas City Star

Charles County, MD

The New Yorker

Teaching and research assistants at Georgetown

EMILY's List

CHIRLA (Coalition for Humane Immigrant Rights), LA

Glitch software company

Longwood Public Library, NY

Manpower Demonstration Research Corporation, Oakland

The Atlantic

ACLU of Minnesota

The McClatchy newspaper

Code for America

Brookings Institution

Case Study: The Open Society Institute-Baltimore:

Agreed to a AAA-supervised election for OSI-Baltimore, in 2016 and to a card check majority verification process for OSI-NYC and OSI-DC.

Employees in Baltimore selected CWA as their union and negotiated a contract.

Walters Chairperson, James H. DeGraffenreidt, Jr., is an advisory board of OSI-Baltimore

Alicia Wilson, sits on both the Walters and OSI-Baltimore boards.

Judge Andre Davis, the former city solicitor of Baltimore is a Walters board member and was an OSI-Baltimore at the time.

Absent a consensual resolution, the Mayor and City Council Have the Authority to Solve this Problem



~~problems~~
Solutions

City Charter confers “all the power commonly known as the Police Power to the same extent as the State has or could exercise that power within the limits of Baltimore City.”

City ordinances relating to the Walters can't conflict with state law or the city charter. (Just like anything else the city does.)

Expanding collective bargaining to Walters employees through an ordinance does not conflict with any state law, the city charter, or Walters' enabling Act. In fact it is *consistent* with State law and policy.

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