

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

OLIVE HILL GREENHOUSES, INC.)	Case No. 2024-MMC-002
)	
Employer,)	ORDER DIRECTING PARTIES TO MANDATORY MEDIATION AND CONCILIATION
)	
and,)	
)	
UNITED FARM WORKERS OF AMERICA,)	
)	
Petitioner.)	
)	Administrative Order No. 2024-28 (November 22, 2024)
)	
)	

On November 12, 2024,¹ petitioner United Farm Workers of America (UFW) filed with the Agricultural Labor Relations Board (ALRB or Board) a request for referral to mandatory mediation and conciliation (MMC) with employer Olive Hill Greenhouses, Inc. (Olive Hill) pursuant to Labor Code section 1164.² (See Board reg. 20400.)³ Olive Hill filed an answer on November 18. For the reasons below, the Board GRANTS UFW’s request, and hereby DIRECTS the parties to MMC.

¹ All dates are in 2024 unless otherwise indicated.

² Subsequent statutory citations are to the Labor Code unless otherwise indicated.

³ The Board’s regulations are codified at California Code of Regulations, title 8, section 20100 et seq.

BACKGROUND

On January 10, the UFW filed a majority support petition pursuant to section 1156.37. The regional director conducted an investigation and issued a report on January 16, stating her determination the UFW established majority support. The executive secretary thereupon issued a certification on January 17 designating the UFW as the exclusive collective bargaining representative of Olive Hill's agricultural employees. (§ 1156.37, subd. (e)(3).) Olive Hill did not file any objections to the certification pursuant to subdivision (f)(1) of section 1156.37.

On November 12, the UFW filed the underlying request for referral to MMC. The request is accompanied by a supporting declaration from UFW national Vice-President Roman Pinal. Pinal's declaration states (1) the UFW was certified as the exclusive collective bargaining representative for Olive Hill's agricultural employees on January 17, (2) the UFW initially requested bargaining on January 26, (3) 90 days have passed since the UFW's initial bargaining request and the parties have not reached a collective bargaining agreement, (4) the UFW and Olive Hill have not previously had a binding contract between them, and (5) Olive Hill has employed at least 25 agricultural employees during a calendar week in the preceding year.

Olive Hill filed a timely answer to the UFW's request for referral to MMC on November 15. While Olive Hill does not dispute that any of the statutory and regulatory criteria for referral to MMC have been met, Olive Hill states that all delays in negotiations have been caused by the UFW. Olive Hill's answer to the request for MMC is accompanied by a supporting declaration from Patrick Moody, chief negotiator for

Olive Hill. Moody states that at the parties' last negotiation session on September 12, the parties agreed to meet to go over Olive Hill's third proposal, followed by a break during which the UFW would prepare a response that the parties would discuss in a second session that same day. However, the UFW cancelled the second session, and although Pinal stated that he would draft a proposal and send it to Moody, the UFW has not provided any response to Olive Hill's most recent proposal and has not suggested any dates for further negotiations. Olive Hill's position is that the Board should deny the UFW's request for referral to MMC based on the UFW's bad faith during negotiations.

DISCUSSION

The Legislature added the MMC statute (§ 1164 et seq.) to the Agricultural Labor Relations Act (ALRA or Act)⁴ in 2002 after finding the Act had failed to achieve its goal of facilitating the adoption of collective bargaining agreements for agricultural workers. (*Gerawan Farming, Inc. v. ALRB* (2017) 3 Cal.5th 1118, 1132-1133.) The MMC statute thus establishes a procedure for ensuring a more effective collective bargaining process by facilitating the expeditious resolution of first contracts. (*Id.* at p. 1141.)

The relevant prerequisites for referral to mandatory mediation and conciliation are set forth in Code section 1164 (a) and section 20400 (b) of the Board's regulations. If, as here, the labor organization was certified after January 1, 2003, either party may file a request for mediation any time following 90 days after an initial demand

⁴ The ALRA is codified at section 1140 et seq.

to bargain. The filing party must submit a declaration stating that the parties are subject to an existing certification, that they have failed to reach a collective bargaining agreement, and that the employer has employed 25 or more agricultural employees during any calendar week in the year preceding the filing of the declaration and request for mediation. In addition, the declaration must be accompanied by any documentary or other evidence that supports the above statements. (§ 1164, subd. (a)(2); Board reg. 20400, subd. (b).)

The UFW's request satisfies the statutory and regulatory criteria for referral to MMC. Olive Hill's answer does not dispute this. Where an answer to a request for MMC admits the truth of the factual prerequisites set forth above, the Board is obligated to issue an order directing the parties to MMC. (§ 1164, subd. (b); Board reg. 20402, subd. (b).) Olive Hill's allegations of bad faith on the part of the UFW do not provide a basis to decline the UFW's request for referral to MMC. Olive Hill is therefore subject to referral to MMC. (§§ 1156.37, subds. (e)(3), (f)(3), 1164, subd. (a).)

ORDER

For the foregoing reasons, the Agricultural Labor Relations Board hereby DIRECTS petitioner United Farm Workers of America and employer Olive Hill Greenhouses, Inc. to mandatory mediation and conciliation pursuant to Labor Code section 1164, subdivision (b) and Board regulation 20402, subdivision (b). Upon the issuance of this Order, the executive secretary shall request the California State Mediation and Conciliation Service furnish a list of nine mediators to be provided to the parties. The parties shall have seven days from receipt of the list to select a mediator in

accordance with Labor Code section 1164, subdivision (b) and Board regulation 20403.

IT IS SO ORDERED.

DATED: November 22, 2024

Victoria Hassid, Chair

Isadore Hall, III, Member

Barry Broad, Member

Ralph Lightstone, Member

Cinthia N. Flores, Member