

Statement of Reasons for Dismissing the Complaint
of Thomas Harrington Regarding the Alleged Failure of the
New England Regional Council of Carpenters, United
Brotherhood of Carpenters and Joiners of America, AFL-CIO, to Elect Officers
in Compliance with the Labor-Management Reporting and Disclosure Act.

The complainant, Thomas Harrington, a member in good standing of New England Regional Council of Carpenters [Regional Council], United Brotherhood of Carpenters and Joiners, AFL-CIO, filed a timely complaint alleging that the Regional Council fails to elect its officers in compliance with Title IV of the Labor Management Reporting and Disclosure Act of 1959, 29 U.S.C. §§ 482, *et seq.* (the "Act"). For the following reasons, the complaint is dismissed.

The complainant alleges that since the Regional Council assumed functions traditionally performed by the locals of the Carpenters, the Regional Council is now acting as a "local" labor organization and must therefore directly elect its officers to remain in compliance with section 401(b) of the Act, 29 U.S.C. § 481(b). Section 401(b) of the Act states, "Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing." The Regional Council considers itself an intermediate body, and elects its officers via delegates elected by the members of locals pursuant to section 401(d) of the Act, 29 U.S.C. § 481(d). Section 401(d) states that, "Officers of intermediate bodies, such as general committees, system boards, joint boards, or joint councils, shall be elected not less often than once every four years by secret ballot among the members in good standing or by labor organization officers representative of such members who have been elected by secret ballot."

The Regional Council was created by the United Brotherhood of Carpenters and Joiners [International] on July 1, 1996. The bylaws of the Regional Council do appear to invest it with some of the powers and functions the locals traditionally possessed. However, the Department is unable to conclude that for this reason the Regional Council is no longer an intermediate body entitled to elect its officers in accordance with either of the two choices prescribed by Congress for intermediate bodies in section 401(d) of the Act.

Congress' purpose in ordering unions to conduct free and fair periodic elections was "to insure that the officials who wield [power] are responsive to the desires of the men and women whom they represent". S. Rep. No. 187, 86th Cong., 1st Sess. 19-20. In section 401(d) of the Act, Congress indicated that with respect to intermediate bodies the above purpose could be achieved either directly by a secret ballot vote among all of the members of the intermediate body or indirectly by delegates who themselves were elected directly by secret ballot vote among all the members they represent. Furthermore, that same report indicates that Congress recognized that intermediate bodies had varying degrees of governing power. It states, "The bill recognizes that in some unions intermediate bodies exercise *responsible governing power* and specifies that the members of such bodies as systems boards in the railroad industry be elected

by secret ballot of the members of the union *or union officers elected by the members by a secret ballot.*” Id. (emphasis added). Thus, Congress understood that intermediate bodies could exercise “governing power” and still be permitted to elect officers via delegate as long as these delegates were selected by secret ballot. There is no basis in the statute or in the legislative history for concluding that if intermediate bodies possess certain functions and powers, they may only elect their officers directly by secret ballot vote among the members of the intermediate body.

Further, the Department’s investigation disclosed no evidence that would provide a basis for concluding that the Regional Council is now a “local” labor organization. The available evidence indicates that the locals that comprise the Regional Council have not been dissolved or absorbed by the Regional Council so as to be mere administrative arms of the Council, but rather appear to continue to function as separate labor organizations under the Act. From the evidence obtained from the Department’s investigation, the locals subordinate to the Regional Council satisfy the definition of “local” in the ordinary sense. All of the locals of the Carpenter’s New England region are clearly subordinate to the Regional Council, which in turn is subordinate to the International. These locals are independently chartered, have identifiable memberships, elect their own officers, and have their own bylaws. The locals are parties to collective bargaining agreements, and although the Regional Council negotiates these agreements, the locals have the authority to ratify them. The New England Carpenter locals hold meetings periodically where the membership is informed of union activities and business. Each local has its own budget and manages its own bank accounts. Collection of membership dues is performed at the local level. First level grievances are administered by stewards at the local level. Based upon these facts, we are unable to conclude that the locals of the New England Regional Council are so depleted of power and function that they no longer constitute “local” labor organizations under the LMRDA. There is no violation.

It is concluded from the analysis set forth above that the investigation failed to disclose any violation of the Act upon which the Secretary of Labor may bring an action under Section 402 of the Act, 29 U.S.C. § 482, to set aside the election. Accordingly, we are closing our file on this matter.