

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 1525 PALM BEACH LAKES BLVD., WEST PALM
BEACH, FL 33401

May 07, 2014

CASE NO.: 4D13-0014, 4D13-0015

L.T. No.: 12-1000 05

THE BOARD OF TRUSTEES OF THE CITY, etc., et al. v. CITY OF HOLLYWOOD, etc.

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ON MOTION FOR CLARIFICATION

We hereby address the appellants' motion for clarification with respect to this court's affirmance in Case Nos. 4D13-14 and 4D13-15. Otherwise, the "petition for rehearing, written opinion, and clarification" is denied.

On appeal, the appellants challenged the circuit court's conclusion that it lacked subject matter jurisdiction to hear their counts for declaratory judgment. The circuit court dismissed these counts in favor of the exclusive and preemptory jurisdiction of the Public Employees Relations Commission ("PERC"). We find no basis to reverse. See *Commc'ns Workers of Am. v. Indian River Cnty. Sch. Bd.*, 888 So. 2d 96, 100 (Fla. 4th DCA 2004) ("[J]urisdiction over labor activities is preempted in favor of PERC if the activities are 'arguably' covered by the provisions of Part II, Chapter 447, [Florida Statutes].") (quoting *Maxwell v. Sch. Bd. of Broward Cnty.*, 330 So. 2d 177, 179 (Fla. 4th DCA 1976)). Moreover, the appellants themselves are "arguably covered" by section 447.503, Florida Statutes.¹ It is therefore appropriate to defer to PERC's exclusive and preemptory jurisdiction for a determination of standing.

To the extent the appellants claim our affirmance in this case is in conflict with this court's opinion in *Hollywood Fire Fighters, Local 1375, IAFF, Inc. v. City of Hollywood*, 133 So. 3d 1042 (Fla. 4th DCA 2014), we clarify that the *IAFF* case was an appeal of a final order from PERC (and, in fact, PERC did not dismiss based on lack of standing); whereas here, the appellants never sought an order from PERC before first filing suit in the circuit court. Accordingly, we agree with the circuit court that it lacked jurisdiction to decide the issues raised by the appellants in seeking declaratory judgment. Instead, such matters – including whether the Board-appellants have standing to be heard by PERC - are subject to PERC's exclusive and preemptory jurisdiction.

Served: _____

¹ "A proceeding to remedy a violation of the provisions of s. 447.501 shall be initiated by the filing of a charge with the commission by an employer, employee, or *employee organization*, or any combination thereof." § 447.503(1), Fla. Stat. (2013) (emphasis added).

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Fourth District Court of Appeal

