



# LOCAL 1998

National Federation of Federal Employees  
International Association of Machinists & Aerospace Workers, AFL-CIO



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## Union's Appeal of ULP Dismissal in Case # SF

August 1, 2005

To: General Counsel  
Federal Labor Relations Authority  
Office of the General Counsel  
1400 K Street NW, Second Floor  
Attention: Appeals  
Washington, D.C. 20424

RE: Seattle Passport Agency Door/Vault Construction Unfair Labor Practice

We ask the Authority to reconsider its "de minimus" justification for determining that Seattle Passport Management has no obligation to bargain over any of the Union's proposals regarding the elimination by the agency's 9<sup>th</sup> floor south-side entry/exit point.

The Seattle Passport Agency has several mobility-impaired employees. Any trip by foot for these individuals requires much more time and effort than it would most employees. We disagree that a decision to eliminate one of three entry/exit points into the agency has a trivial impact on these people. In addition to the extra minutes it now takes them to come and go from the office space, some of these employees have to walk to the other end of the agency to make photocopies. This is because, as part of the construction project, the most-widely used photocopier was moved into a section of the agency to be close to employees who do not normally make photocopies. This extra walk is a burden for **all** of the adjudication section employees, not because the distance is insurmountable, but because the agency's production standards are so severe. A half dozen extra trips to the far end of the agency in a day has a significant impact on an adjudicator's ability to meet his or her production numbers for the day. The high production standards at the Passport Agency were referenced by the Government Accountability Office (GAO) in testimony to the U.S. Senate Homeland Security & Governmental Affairs Committee on June 29, 2005 in a hearing entitled "Vulnerabilities in the U.S. Passport System Can Be Exploited by Criminals and Terrorists". Any amount of lost time that might be mistaken by someone outside the agency as a trivial is in reality a critical factor in whether or not an employee can produce enough to keep their jobs. In an environment so heavily geared towards speedy production, there is no extra time to waste. For the employees with mobility problems, the extra walk to reach the relocated photocopier is several extra minutes in a single trip.

There are clear safety implications resulting from this construction project. The number of exits for employees to leave the workspace in case of an emergency has now been cut by one third. Although there are additional doors within the 9<sup>th</sup> floor space that could be used in an emergency, they are located away

from the employees' desks, and farther than an already-existing entry point on the west side of the building. The only reason to use these additional west-side exits would be if a person already present in the public counter area or if the main west-side door were unusable. So although there are more than two doors on the 9<sup>th</sup> floor, the number of practical exits has been effectively cut by one third. For an agency densely packed with people, and occupying three quarters of the floor in the Jackson Federal Building, it would be foolhardy to design the floor with merely two exit points in mind.

To illustrate the layout of the workspace, the east side of the building is taken up by the processing section (contract workers and some bargaining unit members), plus the first level supervisors. The south side of the agency is the adjudication section (all bargaining unit members), with some additional processing work stations. The west side of the agency contains the offices of upper management, the cashiering office, and the public counter area. The most densely populated section of the office, due largely to the absence of individual offices and large machinery, is the south side of the office.

Of the two main exits, one is in the quality control area. The quality control area is already cluttered with large tables holding tubs of completed passports to be mailed out. As the day goes on, this area fills up with work and employees, and becomes increasingly difficult to navigate through. This Eastside door would be an unlikely area to accommodate a sudden rush of 25 people needing to leave urgently in an emergency. The main Westside door also becomes blocked by couriers making pickups, but it is only at the end of the work day that this occurs. So generally speaking, the Westside door could handle a rush of people in an emergency. If time were a factor, the Westside door would not be the desirable choice location for a mass exodus because it was always the least used of the three main doors before the construction took place. This is because the west side of the building contains the offices of upper management, so there are typically less than half the number of people in proximity to the west side door than to the east side door or the now-demolished south side door.

Injuries frequently accompany emergency evacuations. Employees unable to walk under their own power would likely have a much longer path to get out in an emergency without a Southside door to leave by. From the middle of the agency, the route to the elevator would be more than three times as long. Rather than exiting out the south door to an elevator less than 20 feet away, an injured employee would have to make their way all the way to the extreme outside edge of the agency in order to exit, and then double back to the south side to reach an elevator. Even in types of emergencies where the elevators could not be used, the path to the stairwells would be longer than previously.

In its 1990 decision in Case #36 FLRA 655, 668, the Authority determined that, "the location in which employees perform their duties, as well as other aspects of employees' office environments, are matters at the very heart of the traditional meaning of "conditions of employment". We believe the Authority's decision to dismiss is essentially a decision that work environment is no longer a working condition. For, if taking out the most widely-used entry/exit way in the agency is not a change in office space working conditions, then what is? This is after all, or more specifically was, the doorway closest to a drinking fountain, the doorway closest to the elevators, and the **only doorway on the floor next to a fire extinguisher**. In short, whether an employee needed the fire extinguisher during an emergency, was seeking a drink of water, or just wanted to get off the 9<sup>th</sup> floor, the south-side doorway was the sensible one to use.

In conclusion, we would ask that the Authority reconsider its decision in this case. We believe the de minimus finding does not take into account the safety implications of this change, and ask that the Authority revisit this issue.