

Union filed a Step III group grievance, alleging a violation of Article XXIII, §11 of the Seasonal Unit Agreement (“Agreement”) in that investigators were sent to the homes of union members to interview them without,

- a) providing proper advance notice; b) informing the employees of their right to union representation or legal counsel; c) affording the right of union representation or legal counsel; d) conducting interviews in an appropriate setting.

On May 29, 1997, without having received a response from the City,² the Union filed a request for arbitration. The request alleges grievances identical to those enumerated in the Step III grievance, cited above, and seeks, as remedies, (i) the cessation of the interviews; (ii) that the City comply with the contract; (iii) punitive damages; and (iv) other relief deemed appropriate.

We note here, that in Decision No. B-2-98 (BCB-1896-97; A-6611-97), issued on January 27, 1998, this Board dealt with a request for arbitration identical to the one before us now; the parties and legal theories pertaining to the claims and defenses are identical. We therefore refer the parties to Decision No. B-2-98, for a full and complete discussion of the i) positions of the parties; ii) the rationale for the Board’s decision; and iii) the City members’ dissent.³

Accordingly, for the reasons stated in Decision No. B-2-98, we will deny the instant petition challenging arbitrability.

² In light of the fact that the Union filed a request for arbitration, the City issued a letter on July 8, 1997, closing its file on the Step III grievance.

³ *See also*, Decision No. B-46-97.

ORDER

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

ORDERED, that the petition challenging arbitrability filed herein, by the City of New York be, and the same hereby is denied, and it is further,

ORDERED, that the request for arbitration filed herein by District Council 37, and the same hereby is, granted.

Dated: March 24, 1998
New York, N.Y.

Steven C. DeCosta
CHAIRMAN

Daniel G. Collins
MEMBER

George Nicolau
MEMBER

Carolyn Gentile
MEMBER

Jerome E. Joseph
MEMBER

We dissent for the reasons stated in our dissenting opinions in Decision Nos. B-2-98 and B-46-97.

Richard A. Wilsker
MEMBER

Saul G. Kramer
MEMBER