

Ass. of claim Examiners v. City, 10 OCB 25 (BOC 1972) [Decision No. 25-72 (Amend. Cert.)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

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In the Matter of  
ASSOCIATION OF CLAIM EXAMINERS

DECISION NO. 25-72

-and-

DOCKET NO. RU-288-71

THE CITY OF NEW YORK

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DECISION AND ORDER  
AMENDING CERTIFICATION

On November 18, 1971, the Association of Claim Examiners (Association), the certified bargaining representative of a unit consisting of Claim Examiners and Senior Claim Examiners, filed a motion to amend its Certification CWR-62/67 "so as to name the exclusive bargaining representative as . . . Local 154, AFSCME, and District Council 37, AFSCME." The affidavit of Forbes Irvine, President of the Association, supporting the motion alleged that:

"In accordance with its constitution the Association by a vote of a substantial majority of all of its members has affiliated with District Council 37, AFSCME, as a separate chapter in Local 154, AFSCME.

"The Association is filing the motion to amend its certification to reflect such affiliation in order to insure that District Council 37 may participate in all matters involving the Association."

On January 7, 1972, Walter Phelan, Executive Vice President of the Association of Claim Examiners, served and filed a motion to intervene in opposition to the motion to amend the certification on behalf of himself and other members of the Association. The motion to intervene was withdrawn on March 19, 1972, and the motion to amend the certification is now unopposed.

On March 24, 1972, Joan Stern Kiok, Esq., Associate General Counsel of District Council 37, filed a further affidavit setting forth the facts supporting the allegation that the Association would remain "a separate chapter" in Local 154. The affidavit stated, inter alia:

"(a) membership in the chapter would be available only to claim examiners

(b) the chapter would elect its own negotiating committee and the bargaining would continue to be separate from other titles in the local;

(c) only members of the chapter could vote upon ratification of a collective bargaining agreement;

(d) Forbes Irvine, the President of the Association, would become Chairman of the chapter until elections are held for a new chairman;

(e) the chapter would continue to handle its own grievances with the assistance of the District Council;

(f) Local 154 has approved the affiliation and has welcomed the Association to the local as a separate chapter within the local."

The City does not oppose the motion to amend the certification.

It appears that the collective bargaining and grievance servicing functions heretofore performed by the Association will continue to be performed by the Claim Examiners and Senior Claim Examiners as a separate entity within Local 154. Thus, the function

ing of the collective bargaining representative as regards the unit members will be unchanged by the affiliation with Local 154. Further, the record shows that the decision of the members to affiliate with Local 154 and the electoral process in which all of the members were given the opportunity to participate, complied with the requirements of the Association's constitution.

In a recent case (Civil Service Forum, Local 300, Decision No. 13-72), the Board, finding that no questions of representation existed, granted a request to amend a certification where the electoral process involving a transfer of employees from one local to another of the same International was democratically conducted and "the day-to-day relationship between the unit employees and the employer will be maintained and their contractual obligations honored."

It is noted that under similar circumstances, the NLRB has adopted a like policy. Thus, where a certified union affords its members the opportunity to consider and vote on the question of affiliation in accordance with democratic procedures provided in the union constitution, where there is no change in the bargaining unit, and where the certified union requests amendment of its certification, no true question of representation is presented.<sup>1</sup>

We shall grant the motion to amend the certification. Such amendment is not, however, to be considered as a new certification or a recertification.

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See Montgomery Ward & Co., 188 NLRB No. 87, 76 LRRM 1364; East Ohio Gas Co., 140 NLRB No. 140, 52 LRRM 1220.

O R D E R

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

O R D E R E D , that the motion to amend certification CWR-62/67 by naming therein Local 154, AFSCME, and District Council 37, AFSCME, be, and the same hereby is, granted; and it is further

O R D E R E D , that the certification CWR-62/67 be, and the same hereby is, amended by naming therein "Local 154, AFSCME, and District Council 37, AFSCME," instead and in place of "Association of Claim Examiners."

DATED: New York, N.Y.  
June 2nd , 1972

ARVID ANDERSON  
C h a i r m a n

WALTER L. EISENBERG  
M e m b e r

ERIC J. SCHMERTZ  
M e m b e r