

Spec. & Sup. Off. Bene. Ass., et. Al v. City, 10 OCB 64 (BOC 1972) [Decision No. 64-72 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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IN THE MATTER OF
SPECIAL AND SUPERIOR
OFFICERS BENEVOLENT ASSOCIATION,
affiliated with ALLIED CRAFTS
SECURITY UNION OF NORTH AMERICA

DECISION NO. 64-72
DOCKET NO. RU-330-72

Petitioner

- and -

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS.

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DECISION AND ORDER

On July 3, 1972, the petitioner herein filed a petition seeking certification as collective bargaining representative of employees in the titles of Special Officer, Senior Special Officer, and Hospitals Security Officer. The employees are in the employ of the City of New York and several other public employers subject to the jurisdiction of this Board.¹

City Employees Union, Local 237, International Brotherhood of Teamsters, the currently certified and incumbent union, and the City, through the Office of Labor Relations, have challenged the status of petitioner as a labor organization,

¹ The other public employers are: City University of New York and the New York City Health and Hospitals Corporation.

contending that petitioner is not a public employee organization within the meaning of the NEW YORK CITY COLLECTIVE BARGAINING LAW.² The incumbent union, in a letter dated July 24, 1972, stated: "We have some serious doubts that this organization exists beyond the designation cards they have submitted and a Post Office box number. We are asking the Board to make a full investigation of this matter and to schedule hearings so that this union and other parties can give evidence". The City's challenge, contained in a letter dated September 13, 1972, rests on the "bona fides" of the petitioner as a union within the meaning of the NEW YORK CITY COLLECTIVE BARGAINING LAW. Though the letters of the incumbent union and the City indicate that copies thereof were forwarded to petitioner, this Board has not received any written communication from the petitioner organization replying to the challenge to its status. When

Section 1173-3,0j of the NEW YORK CITY COLLECTIVE BARGAINING LAW defines "public employee organization" as "any municipal employee organization and any other organization or association of public employees, a primary purpose of which is to represent public employees concerning wages, hours and working conditions".

such a challenge is submitted, the Board is not bound by formal statements contained in an organization's constitution and by-laws as was submitted by the petitioner in the instant matter.

For the purpose of determining the status of a petitioner organization in a representation proceeding it is necessary that a full and complete record be developed so that the Board may give full consideration to all relevant evidence concerning the challenge to the status of the petitioner organization. The foregoing procedure should be particularly applicable when, as in the instant matter, a newly formed organization, unaffiliated with any other organization previously known to this Board as a bona fide labor organization, appears before the Board for the first time.

It is concluded that a hearing be scheduled in this matter for the purpose of making and developing a record concerning all of the relevant facts as to whether the petitioner organization does in fact exist for all of the purposes set forth in the NEW YORK CITY COLLECTIVE BARGAINING LAW.

ORDER

Pursuant to the powers vested in the Board of Certification by the NEW YORK CITY COLLECTIVE BARGAINING LAW, it is hereby ORDERED, that this proceeding be, and the same hereby is,

directed to proceed to hearing on the issue of the petitioner's status as a public employee organization under the NEW YORK CITY COLLECTIVE BARGAINING LAW, the hearing to take place at a time and place to be fixed by a Trial Examiner of the Board; and it is further

ORDERED, that petitioner, the incumbent union and the Office of Labor Relations and their respective counsel of record, be notified in writing of the time, date and place of such hearing.

DATED New York, N.Y.
 September 25, 1972

Arvid Anderson
C h a i r m a n

Eric J. Schmertz
M e m b e r

Walter L. Eisenberg
M e m b e r