

L.808, IBT v. City, 12 OCB 64 (BOC 1973) [Decision No. 64-73 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

LOCAL 808, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS,

DECISION NO. 64-73

Petitioner,

DOCKET NO. RU-359-73

-and-

THE CITY OF NEW YORK and
RELATED PUBLIC EMPLOYERS,

Respondent.

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DECISION AND ORDER

On February 2, 1973, Local 808, International Brotherhood of Teamsters, filed a petition seeking certification as exclusive representative of a bargaining unit consisting of the titles of Taxi and Limousine Inspector and Senior Taxi and Limousine Inspector employed by the Taxi and Limousine Commission. The City opposed the petition on two grounds: (1) that the petitioner had not demonstrated that it was a bona fide public employee organization; and (2) that the unit sought was inappropriate. The City urged the inclusion in any unit embracing the petitioned Inspector titles of two Emergency Employment Act equivalents: Commercial Vehicle Compliance Agent and Senior Commercial Vehicle Compliance Agent. [The Board of Certification has consistently included EEA titles in units of their counterparts (Decision 23-72).] At the same time, the City maintained

that the petitioned Inspector titles shared a strong community of interest with titles covered by already-certified Board units, to wit: a unit of Motor Vehicle Operator, Automotive Operator (EEA) and Taxi and Limousine Dispatcher (Decision 12-72, c. 2330 positions); a unit of Motor Vehicle Foreman and Senior Taxi and Limousine Dispatcher (Decision 11-73, c. 89 positions); and a unit of non-supervisory, automotive, prevailing rate titles (Decision 54-70 as amended, c. 1164 positions). The first two of these units are represented by D.C. 37, the last by Local 246, SEIU. Still another prevailing rate, automotive unit of supervisors is certified to Local 621, SEIU.

During the pendency of the petition, Local 808, IBT, expressed a willingness to include the EEA equivalent titles in the same unit as the petitioned Inspector titles and, at the hearing, it urged that the Taxi and Limousine Dispatcher titles be included with the Inspector titles for which it had petitioned. In this regard, however, the Board notes that it has already certified the Dispatcher titles as accretions to supervisory and non-supervisory motor vehicle operation units represented by D.C. 37.

The City maintained that the petitioned unit “would be in direct conflict with OCB’s desire to consolidate certification in the automotive field” (RB-20-72, a pending case involving supervisory motor vehicle operation titles only, and would be contrary to Board policy discouraging unit fragmentation (Decision 45-69).

A hearing was held on May 20, 1973, before Malcolm D. MacDonald, Trial Examiner. An officer of Local 808, IBT, submitted the By-Laws of the Union, and testified that the Union holds certifications from the National Labor Relations Board and the New York State Labor Relations Board, that it files annual reports pursuant to the Landrum-Griffin Act, that it exists and holds regular meetings, and that it is not now under any disciplinary action by its parent organization. The City did not pursue any further the matter of the bona fides of the Union.

David Lachs, Director of Personnel of the Taxi and Limousine Commission, testified as to the duties, responsibilities, and compensation of the four titles unique to the Commission: Taxi and Limousine Inspector, Senior Taxi and Limousine Inspector, Taxi and Limousine Dispatcher, and Senior Taxi and Limousine Dispatcher. The Taxi and Limousine Inspector and the Taxi and Limousine Dispatcher receive the same pay -- \$7,800-9,600; the Senior Taxi and Limousine Inspector and the Senior Taxi and Limousine Dispatcher receive almost the same pay -- the inspector \$9,200-11,200, the Dispatcher \$9,400-11,500. The four titles and EEA equivalents (Commercial Vehicle Compliance Agent and Senior Commercial Vehicle Compliance Agent) constitute the field of "enforcement team" of the Commission, and work out of the same central location, the Long Island City facility of the agency, which is headed by a Deputy Commissioner of Operations. The chain of command in all four titles and the EEA equivalents leads to an Acting Director of Operations.

The Taxi and Limousine Inspectors and their supervisors, the Senior Taxi and Limousine Inspectors, perform the inspectional duties entailed in enforcing the Commission's Rules and Regulations: (1) checking the serviceability of hired passenger vehicles and their compliance with established standards of mechanical fitness; and (2) checking the compliance of drivers with established rules governing the personal conduct of operators of hired passenger vehicles (overcharging, riding flag-up, refusing passengers, etc.) The Inspectors prepare inspection reports, issue summonses, may be required to testify at administrative hearings of the Commission, and may serve as dispatchers assisting in or overseeing the dispatch of hired passenger vehicles at airports, ships, railroad and bus terminals, sports arenas, cultural and amusement centers, or other places of public gathering.

The Traffic and Limousine Dispatchers and their supervisors, the Senior Taxi and Limousine Dispatchers, are responsible for the efficient loading of passengers and the dispatch-of taxis and limousines at places of public congregation. The Director of-Personnel at the Commission testified, without contradiction, that the Dispatchers are also authorized to issue summonses, to testify at administrative hearings, and, upon occasion, to do inspection work, just as the Inspectors are sometimes called upon to serve as dispatchers. Indeed, the witness declared (T. p. 26), "Their duties are almost interchangeable."

Both Inspectors and Dispatchers take unassembled examinations, and are required to have achieved High

School graduation or equivalency. In addition, the requirements for the Dispatcher title are one year of experience as a dispatcher of vehicles or six months of such experience plus an additional two years of motor vehicle operation experience. The Inspector must have either (a) one year of experience as an inspector of Vehicles, or (b) two years of experience in other types of inspection, investigation or law enforcement, including at least one year of experience in motor vehicle inspection or maintenance, or (c) two years of experience in motor vehicle maintenance as a mechanic or helper.

The petitioned Inspector titles are classified in the Public Health and Safety Inspectional Occupational Group; the Taxi and Limousine Dispatcher titles in the Motor Vehicle Operation Occupational Group.

Upon the basis of the entire record, we find and conclude that Local 808, IBT, is a public employee organization within the meaning of § 1173-3.0.j of the New York City Collective Bargaining Law. We further find that the petitioned unit of Taxi and Limousine Inspector titles (including EEA equivalents) is inappropriate. The requested unit, in our judgment, is in conflict in two respects with the Board's expressed purpose to minimize the number of bargaining units. In the first place, it is very small (only 20 employees, in addition to 24 vacant positions); secondly, there appears to be an obvious community of interest between the four titles petitioned for and titles already certified in other units.

For these reasons we deem it fitting to comment on possible appropriate units instead of merely dismissing the petition. One possible unit to which the Inspector titles might be added is the motor vehicle operation unit which includes the Taxi and Limousine Dispatchers. Also appropriate might be either their inclusion in a consolidated unit embracing other inspectional titles in the Public Health and Safety Inspectional Occupational Group, or their addition to units of supervisory and non-supervisory automotive trades (prevailing rate) titles. In this regard the Board notes that the City also expressed the view that the petitioned-for employees should be added to an existing unit.

Accordingly, we will dismiss the petition herein. This determination will not constitute an obstacle to any petition for addition of the Taxi and Limousine Inspector titles to the aforementioned units or to any other appropriate unit, nor will it in any way affect the Board's right to initiate a proceeding for the addition of these titles to any existing unit.

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

ORDERED, that the petition filed by Local 808,
IBT, be, and the same hereby is, dismissed.

DATED: New York, N.Y.

August 9, 1973

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