

Allied Ser. Divi., et. Al v. City, et. Al, 18 OCB 50 (BOC 1976)  
[Decision No. 50-76 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

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In the Matter of

PATROLMEN AND SECURITY OFFICERS  
SECTION, ALLIED SERVICES DIVISION,  
BRAC, AFL-CIO,

DECISION NO. 50-76

DOCKET NO. RU-580-76

Petitioner

-and-

THE CITY OF NEW YORK AND RELATED  
PUBLIC EMPLOYERS

-and-

CITY EMPLOYEES UNION, LOCAL 237,  
I.B.T.,

Intervenor

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DECISION AND ORDER

On October 8, 1976, Patrolmen and Security officers Section, Allied Services Division, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, AFL-CIO (herein "BRAC"), filed its petition herein, seeking certification as the exclusive collective bargaining representative of a unit consisting of the employees in the titles of Special Officer, Senior Special Officer, Supervising Special Officer, and Hospital Security Officer. City Employees Union, Local 237, International Brotherhood of Teamsters, the currently certified<sup>1</sup> and incumbent union, and the City, through the Office of Labor Relations, have challenged

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Certification No. 56-70, as amended by Decisions 97-73 and 14-76.

the timeliness of this petition. Local 237 states that "The petition is untimely and should be dismissed by the Board and the City opposes the ... petition ... on the grounds that it is not timely filed pursuant to OCB Rule 2.7."

The pertinent portion of Section 2.7 of the Revised Consolidated Rules of the Office of Collective Bargaining ("Petitions - Contract bar; Time to file") provides that "... no petition for certification ... may be filed after the expiration of a contract." The last contract for this unit expired on December 31, 1975, and negotiations between the parties for a successor contract are now in progress. Accordingly, we shall dismiss BRAC's petition herein.

It should be noted that there is presently pending before the Board a petition (Docket No. RE-66-76) filed by the City's Office of Labor Relations, requesting the consolidation of the unit petitioned in the instant case with another unit represented by Local 237, I.B.T., viz., a "general maintenance, inspection, skilled crafts, and related" unit. (Certification No. 62-B-75, as amended). As we said in Matter of Local 1199 (Decision No. 33-74, reaffirmed by Decision No. 50-74):

"... a party having a bona fide interest in a proposed consolidated unit, or a segment thereof, should intervene during the pendency of the consolidation proceeding to set forth its unit views. Such intervention will be limited solely to challenging the appropriateness of the unit, unless otherwise timely under Rule 2.7, Contract Bar.

"If a party intervening in a consolidation proceeding is successful in persuading the Board that the segment of the consolidated unit it seeks is an appropriate unit and should not be consolidated, it will be timely to file a representation petition for that segment during the sixth month prior to the expiration date of the contract for that segment. On the other hand, if consolidation is directed by the Board and the Union wishes to challenge the incumbent or incumbents for the consolidated unit, then . . . a petition should be filed during the sixth month prior to the expiration date of the last-expiring contract in existence at the time consolidation was directed . . . ."

Inasmuch as BRAC has demonstrated a bonafide interest in the matter, it may, if it is so inclined, intervene in Case No. RE-66-76 for the sole purpose of challenging the appropriateness of the unit sought by the City in that matter. Any such intervention should be made within ten (10) days of the date of this decision.

O R D E R

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

ORDERED that petition RU-580-76 filed herein by Patrolmen and Security Officers, Allied Services Division, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, AFL-CIO, be, and the same hereby is, dismissed without prejudice to its right to intervene in Case No. RE-66-76 for the limited purpose of challenging the appropriateness of the unit sought by the City in that matter.

DATED:       New York, New York  
              November 15, 1976

ARVID ANDERSON  
CHAIRMAN

WALTER L. EISENBERG  
MEMBER

ERIC J. SCHMERTZ  
MEMBER