

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO

DECISION NO. 19-78

DOCKET NO. RU-629-77

-and-

THE CITY OF NEW YORK

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DECISION AND ORDER

On December 16, 1977, District Council 37, AFSCME, AFL-CIO, petitioned for amendment of its designation (Decision No. 94-70) as "the collective bargaining representative of all employees in the Department of Parks on matters which must be uniform for all employees in that department" to reflect organizational changes that have been implemented since its designation in 1970. Local Law No.7 of, 1976 abolished the Parks, Recreation and Cultural Affairs Administration and its subordinate Department of Parks..and established a Department of Parks and Recreation. Our investigation confirms that the petitioner is "the certified representative ... of bargaining units which include more than fifty percent of all employees ..." in the new Department.

Positions of the Parties

The City's Office of Municipal Labor Relations opposes this petition on the ground that "the departmental level of bargaining is an unused and superfluous appendage to the bargaining structure." In support of this position, the City

states that only six such designations have ever been issued and that, of those remaining in force, "only the Parks unit has ever negotiated a departmental agreement." The City claims that this is because there are "no subjects which are truly appropriate for departmental bargaining." The City concludes that the Board would "only preserve an anachronism" by granting this petition.

The Union replies that the law providing for departmental units is still in force, and the present designation for employees of the Department of Parks was issued "in conformity with it." The Union suggests that "If the City considers the law to be outmoded, it should seek to change it through appropriate legislative action." The Union concedes that "departmental bargaining has never been widespread" but contends that its purpose is "to cover precisely those exceptional units such as the Parks Department" where there is a need for special terms concerning transfers, seniority, safety, etc.

Discussion

Section 1173-4.3a.(3) of the NYCCBL reads as follows:

"matters which must be uniform for all employees in a particular department shall be negotiated only with a certified employee organization, council or group of certified employee organizations designated by the board of certification as being the certified representative or representatives of bargaining units which include more than fifty per cent of all employees in the department."

The quoted section remains a part of the law, and petitions for designations thereunder must be processed by this Board. To agree with the City's position would require this Board to ignore the clear provisions of the City law which the Board is charged with the responsibility to administer. The claims made by the City of New York in support of its position herein would more appropriately be addressed to the City Council. We recommend to the parties that the question raised by the City as to the viability of departmental bargaining certificates be jointly considered by the Office of Municipal Labor Relations, the Municipal Labor Committee and this Office in contemplation of possibly recommending to the City Council an amendment to the NYCCBL.

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 the Designation of Representative contained in Decision No. 94-70 be, and the same hereby is, amended by substituting therein the Department of Parks and Recreation

Decision No. 19-78
Docket No. RU-629-77

4

for the Department of Parks, subject to existing contracts,
if any.

DATED: New York, N.Y.
May 1, 1978

ARVID ANDERSON
CHAIRMAN

WALTER L. EISENBERG
MEMBER

ERIC J. SCHMERTZ
MEMBER