OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION
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In the Matter of

LOCAL 1, INTERNATIONAL UNION
OF ELEVATOR CONSTRUCTORS,
AFL-CIO

-and- DECISION NO. 12-83

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS DOCKET NO. RU-890-83

-and-

CITY EMPLOYEES UNION, LOCAL 237,
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS
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DECISION AND ORDER

On March 30, 1983, Local No. 1, International Union of Elevator Constructors, AFL-CIO (Local 1), filed a petition with the Board of Certification, seeking certification of a bargaining unit consisting of employees in the titles Elevator Mechanic, Elevator Mechanic's Helper, and Supervisor Elevator Mechanic ("Elevator Mechanics"). The requested unit contains approximately 400 employees. Local l's showing of interest is more than adequate for the requested unit.

For reasons stated below, we will dismiss the petition without a hearing.

The employees in the petitioned-for titles are part of a significantly larger consolidated collective bargaining unit of approximately 5,000 employees serving in 68 titles. The consolidated unit is represented by City Employees Union, Local 237, International Brotherhood of Teamsters (Local 237).

The unit was formed by Decision 67-78, issued in December 1978, and consists of custodial, general maintenance, inspectional, and skilled craft employees.

Elevator Mechanics are subject to Section 220 of the Labor Law ("prevailing rate") and, together with other "220" employees in the consolidated unit, constitute approximately 48% of the total unit. Prior to the consolidation, Elevator mechanics were represented in a separate unit by Local 237, the union chosen by the Mechanics as their certified representative in 1977.

The City of New York, by its Office of Municipal Labor Relations, opposes Local l's petition. "Granting Local 1's petition would fragment a viable existing unit, a result contrary to oft-expressed Board policy," OMLR stated in its letter of May 26, 1983. A similar position was taken by OMLR in 1979, when Local 1 petitioned the Board for separate representation of the Elevator Mechanics after they had been consolidated into the present unit by Decision No. 67-78.

Local 237 also opposes the petition. "Removing the three titles ... from their present unit would go against sound labor relations and would be inconsistent with the efficient operation of the public service." In 1979, Local 237 called the petitioned-for unit "wholly inappropriate."

Local l's 1979 petition was dismissed (Dec. No. 25-79) after hearing and after the Board gave "due weight" to the wishes

of the affected employees, the community of interest of the employees, the history of collective bargaining in the unit before and after consolidation, and the effect of the unit on the efficient operation of the City of New York and related public employers. We said then, "there would seem to be a strong community of interest between employees in the three Elevator Mechanic titles and the other Section 220 employees who comprise nearly 48% of the overall unit."

The OCB requested that Local 1 set forth the changes in circumstances that would justify a decision different from that in Decision No. 25-79; Local 1 subsequently sent two letters, one purporting to reply to this request and one written in response to the City's stated opposition to the fragmentation of this unit. A third letter dated July 1, 1983 was received from Local 1 reviewing the recent representation of Elevator Mechanics by Local 237 with respect to determination of their wages under Section 220 of the Labor Law. None of these letters cite changed circumstances that would persuade the Board to change its earlier decision. Indeed, of the numerous "circumstances" cited, only one represents a change from 1979.

This alleged change is that Local 237 has sought to persuade Elevator Mechanics, to their detriment, to accept wage increases that have not been determined pursuant to Section 220 of the Labor Law. The wage rates which Local 237

allegedly asks the Elevator Mechanics to accept are "far below those prevailing in the New York City metropolitan area for similarly skilled employees," and "[n]o determination of the salaries of these titles has been sought from the Comptroller's office," by Local 237.

Even if Local 237 sought to persuade the Elevator Mechanics to accept wage rates lower than prevailing rates for 220 employees, this alleged changed circumstances would not represent a substantial change in the relationship of Elevator Mechanics to Local 237, nor would it affect the makeup of the consolidated unit. Section 1173-4.3 of the New York City Collective Bargaining Law provides that "with respect to those employees whose wages are determined under section 220 of the labor law, there shall be no duty to bargain concerning those matters determination of which is provided in said section; ...." However, we are informed by Counsel for Local 237, that Local 237 has filed application before the Comptroller's Office of the City of New York for a current determination of the prevailing rate of wages for Elevator Mechanics pursuant to Section 220 of the Labor Law. Our records also show that Local 237 filed a similar application for Elevator Mechanics in the preceding Comptroller's determination for the period ending December 31, 1981.

In the absence of evidence of substantial change since the issuance of Decision 25-79 which might cause the Board to make a different unit determination, we dismiss the petition of

Local 1, seeking a unit composed solely of the titles in the Elevator Mechanic series.

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 petition of Local 1 be, and the same hereby is, dismissed.

DATED: New York, N.Y.
July 12, 1983

ARVID ANDERSON
CHAIRMAN

MILTON FRIEDMAN
MEMBER

DANIEL G. COLLINS
MEMBER