

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

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In the Matter of the Petition  
of

DISTRICT COUNCIL 37, AFSCME,  
AFL-CIO

-and-

DECISION NO. 16-86

THE CITY OF NEW YORK and RELATED  
PUBLIC EMPLOYERS

DOCKET NO. RU-948-85

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In the Matter of the Petition of

PAVERS AND ROADBUILDERS  
DISTRICT COUNCIL

-and-

DOCKET NO. RU-951-85

NEW YORK CITY DEPARTMENT OF  
TRANSPORTATION

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**DECISION AND ORDER**

District Council 37, AFSCME, AFL-CIO (hereinafter "D.C. 37") has filed a representation petition (Docket No. RU-948-85) which seeks to have the employees in the title of Service Inspector (Project Scorecard) accreted to its Certification No. 37-78, as amended.<sup>1</sup>

Similarly, the Pavers and Road Builders District Coun-

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<sup>1</sup> D.C. 37's petition originally requested that the title in question be accreted to its Certification No. 28-78, as amended (the Health Service Unit). In a letter dated March 20, 1986, D.C. 37 amended its petition to request that the title be accreted to its Certification No. 37-78, as amended (the Social Services Unit).

cil, Laborers International Union of North America, AFL-CIO (hereinafter "Pavers & Roadbuilders") has filed a representation petition (Docket No. RU-951-85) which seeks to have the employees in the title of Service Inspector (Project Scorecard) accreted to its Certification No. 10-77, as amended.

The City of New York, by its Office of Municipal Labor Relations, has submitted a statement of position as well as a response to D.C. 37's amendment of its petition. The Trial Examiner designated by the Office of Collective Bargaining wrote to the parties, seeking clarification of the parties' positions concerning the appropriateness of each of the petitioned - for units. The Trial Examiner requested that the parties address the community of interest alleged to exist between employees in the title Service Inspector (Project Scorecard) and those in the proposed units, and any similarities in the duties of the respective groups of employees. Both unions submitted written responses to the Trial Examiner's request.

### **Background**

There are approximately 42 employees serving in the title of Service Inspector (Project Scorecard). This title is used in two City agencies - the Department of Transportation and the Mayor's Office of operations. All employees

of the Office of operations having been excluded from bargaining by previous order of the Board of Certification,<sup>2</sup> only those employees serving in the Department of Transportation (approximately 30 in number) are involved in the present case.<sup>3</sup>

The requested title was created in 1977 and has never been formally classified. The draft specification for the title states the duties and responsibilities of the position as follows:

"Under general supervision, with some latitude for the exercise of independent judgment, secures and presents information on the cleanliness, usability and safety of streets, parks, playgrounds and other areas used by the public; performs related work."

It is undisputed that, as the title is used in the Department of Transportation, the employees' duties involve streets and not parks or playgrounds. The Service Inspectors in this agency are assigned to inspect the City street system for the purpose of identifying potholes and

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<sup>2</sup> Decision No. 7-84.

<sup>3</sup> The Pavers & Roadbuilders' petition is limited to employees of the Department of Transportation, while D.C. 37 has indicated that it seeks to represent the title "...in all City agencies in which it is available for collective bargaining." Clearly, the title is not "available" in the Office of Operations.

charting them on maps. They keep daily records of the location, number, and types of holes surveyed. They prepare reports concerning these matters. It is also a part of their job function to reinspect reported potholes to determine whether they have been repaired satisfactorily. They do not perform any of the repairs themselves.

D.C. 37's petition, as amended, seeks to add the employees in this title to the Social Service and Related unit covered by Certification No. 37-78 (as amended). This unit consists of approximately fourteen thousand employees in almost two hundred titles. The Pavers & Roadbuilders' petition seeks to add the employees in this title to Certification No. 10-77 (as amended), which consists of approximately sixty-five employees in the titles of Apprentice Inspector (Highways & Sewers), Highways & Sewers Inspector, and Associate Inspector (Highways & Sewers).

#### Positions of the Parties

##### D.C. 37's Position

D.C. 37 relies upon the job description of the title Service Inspector (Project Scorecard) as establishing a community of interest with employees in the Social Service unit. As an example of the duties of employees in the presently-certified unit, D.C. 37 refers to the title of Sani-

tation Compliance Agent. D.C. 37 submits that the nature of the job duties performed by Service Inspectors indicates a community of interest with Social Service unit employees as represented by D.C. 37.

Pavers & Roadbuilders' Position

The Pavers & Roadbuilders point out that Service Inspectors inspect the City streets in order to identify potholes. It is alleged that unit employees in the title of Highway Inspector perform duties of a similar but more extensive nature, in that they inspect all types of road hazards. The Pavers & Roadbuilders further allege that the record-keeping and reinspection functions performed by Highway Inspectors are "most similar" to the tasks performed by Service Inspectors. The Pavers & Roadbuilders contend that the fact that both types of Inspectors gather data on pavement damage to the street system demonstrates the similarity of the nature of their daily work routines.

The Pavers & Roadbuilders also assert that the titles in the unit proposed by D.C. 37 do not have duties similar to those performed by Service Inspectors with respect to the inspection of road maintenance defects.

Finally, the Pavers & Roadbuilders indicate that if the title Service Inspector (Project Scorecard) is added to

the unit which it proposes, it will be assigned by the union to its Local 1042, which includes Highway & Sewer Inspectors.

City's Position

The City does not oppose the petition of the Pavers & Roadbuilders. The City agrees that placement of the Service Inspector (Project Scorecard) title in the unit proposed by the Pavers & Roadbuilders is appropriate because of the community of interest which exists between employees in this title and the other employees in the proposed unit.

The City opposes the petition of D.C. 37 on the grounds that the unit proposed by D.C. 37 is inappropriate. The City contends that there is no community of interest between the Social Service unit employees and the Service Inspectors, and that, in fact, there is a disparity of duties between these employees. The City notes that Service Inspectors in the Department of Transportation work in the area of highway inspection and repair and that employees in the Social Service unit do not perform such work.

Discussion

Pursuant to Section 1173-5.0b(1) of the New York City Collective Bargaining Law (hereinafter "NYCCBL"), it is the duty of this Board:

"...to make final determination of the units appropriate for purposes of collective bargaining between public employees and public employee organizations .....

Numerous factors may be considered by the Board in determining appropriate bargaining units; <sup>4</sup> however, in the present case, all parties have chosen to focus their attention on the factor of the community of interest alleged to exist between Service Inspectors (Project Scorecard) and employees in the units proposed by each of the unions. We agree that this appears to be the dispositive factor in this case.

D.C. 37 argues that a comparison of the job descriptions for Service Inspector (Project Scorecard) and Sanitation Compliance Agent, one of the titles included in the Social Service unit, demonstrates that there is a community of interest between employees in these titles. We are not persuaded that a significant community of interest exists. Sanitation Compliance Agents perform inspections to assist in the enforcement of the Sanitary Code of the City of New York. They investigate reported violations, interview witnesses, prepare comprehensive reports, and testify or give affidavits in court and in Departmental hearings. In

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<sup>4</sup> Revised Consolidated Rules of the Office of Collective Bargaining ("OCB Rules"), §2.10.

contrast, Service Inspectors (Project Scorecard), who, insofar as relevant herein, are employed only in the Department of Transportation, secure and present information on the condition of the City's streets. Specifically, they locate, chart, and report potholes in the streets, submit reports relating exclusively thereto, and reinspect to determine whether satisfactory repairs have been made. We fail to see any great similarity between investigating Sanitary Code violations and looking for potholes in the streets. Furthermore, it appears that the former job is incidental to a law enforcement function while the latter is incidental to highway maintenance and repair.

The Pavers and Roadbuilders submit that the duties of Service Inspectors (Project Scorecard) are similar to some of the duties performed by employees in the title of Highway & Sewer Inspector. The job specification for that title shows that Highway & Sewer Inspectors inspect, inter alia, the repair and maintenance of roads and the paving and repairing of streets, as well as the satisfactory restoration of pavement subsequent to street openings. They also maintain records and prepare comprehensive reports of their findings. We find these duties to be quite similar to those performed by Service Inspectors, although the inspections performed by the Highway & Sewer Inspectors involve a broader range



of road conditions and require the application of a higher level of skill and experience.

We find that the similarity of duties which exists between Service Inspectors (Project Scorecard) and Highway & Sewer Inspectors establishes a greater community of interest between employees in these two titles than exists between Service Inspectors and Sanitation Compliance Agents. We make this finding despite the fact that the qualifications for hire are more similar between the latter two titles. We recognize that the title Highway & Sewer Inspector requires considerable experience and/or training as a qualification for employment, while the other two titles do not have such a requirement. Nevertheless, we are convinced that the duties of Service Inspectors and Highway & Sewer Inspectors are similar, differing only in scope and level of expertise, while the duties of Sanitation Compliance Agents involve a different kind of governmental operation. We believe that the similarities in job function are more indicative of a community of interest in this case than are similarities of prerequisite experience. Accordingly, we find that the unit proposed by the Pavers & Roadbuilders, which includes the Highway & Sewer Inspector title, is the appropriate unit for collective bargaining.

When the employees in the title Service Inspector

(Project Scorecard) are added to the employees in Certification No. 10-77 (as amended), it is clear that the Pavers & Roadbuilders possesses a majority of dues check-off authorizations in the total unit. (We note that the Pavers & Roadbuilders has submitted dues check-off authorizations from 21 of the 30 Service Inspectors in the Department of Transportation.) Therefore, the requested title may be added to Certification No. 10-77 (as amended).

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 the Pavers & Roadbuilders be, and the same hereby is granted; and it is further

**ORDERED**, that Certification No. 10-77 (as amended) be, and the same hereby is, further amended to include the title of Service Inspector (Project Scorecard), subject to existing contracts, if any; and it is further

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**ORDERED**, that the petition of D.C. 37 be, and the same hereby is, denied.

DATED: New York, N.Y.  
November 18, 1986

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ARVID ANDERSON  
CHAIRMAN

DANIEL G. COLLINS  
MEMBER

MILTON FRIEDMAN  
MEMBER

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The title and title code number of the employees affected by this decision are as follows

Service Inspector (Project Scorecard)	09708
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