

DC37, et. Al v. City, 6 OCB 39 (BOC 1970) [Decision No. 39-70  
(Cert.)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION

DECISION NO. 39-70

In the Matter of  
DISTRICT COUNCIL 37, AFSCME,  
AFL-CIO,  
Petitioner,

-and-

DOCKET NO. RU-141-69

LOCAL 30, INTERNATIONAL UNION OF  
OPERATING ENGINEERS, AFL-CIO,  
Intervener

-and-

THE CITY OF NEW YORK AND RELATED  
PUBLIC EMPLOYERS

In the Matter of  
LOCAL 15, INTERNATIONAL UNION  
OF OPERATING ENGINEERS, AFL-CIO

-and-

DOCKET NO. RU-158-70

THE CITY OF NEW YORK AND RELATED  
PUBLIC EMPLOYERS

DECISION

AND

DIRECTION OF ELECTION

\_\_\_\_\_ District Council 37, AFSCME, AFL-CIO., herein called  
D.C. 37, filed its petition herein on October 20, 1969  
(Docket No. RU-141-69). On November 21, 1969, Local 30, Interna-  
tional Union of Operating Engineers, AFL-CIO, herein called  
Local 30, applied to intervene therein.

On January 30, 1970, Local 15, International Union  
of Operating Engineers, AFL CIO, herein called Local 15, filed  
its petition (Docket No. RU-158-70).

Upon consideration of its investigation, and after  
due deliberation, the Board of Certification issues the following  
Decision and Direction of Election:

I. Undisputed Matters

\_\_\_\_\_ It is undisputed, and we find and conclude, that in fact and within the meaning of the New York City Collective Bargaining Law, Locals 15 and 30 and D.C. 37 are public employee organizations; and that a question or controversy concerning representation exists.

II. The Appropriate Unit

\_\_\_\_\_ D.C. 37 seeks certification as the collective bargaining representative of all Oilers employed by the City of New York and related public employers under the jurisdiction of the Board of Certification. Local 15 seeks certification as the collective bargaining representative of "Oilers (Portable)."

Locals 15 and 30 contend that "Oiler (Portable) and Oiler (Stationary) . . . perform different duties and functions [and] that it would be inappropriate to combine these titles in an overall unit."

The City of New York urges a single unit of all Oilers.

On April 14, 1964, the New York City Civil Service Commission abolished the title of Oiler (except for certain incumbents) and created the titles Oiler (Portable) and Oiler (Stationary). [Resolution 64-31]. In February, 1970, however, the Court of Appeals vacated the reclassification as arbitrary (Morrison v. Hoberman, decided 2/20/70), and the City Civil Service Commission thereupon re-established the single title of Oiler.

We find and conclude, therefore, that all Oilers constitute a unit appropriate for the purposes of collective bargaining, in fact and within the meaning of the New York City Collective Bargaining Law.

III. Representative Status

Locals 15 and 30 have expressed a desire to appear on the ballot jointly. Accordingly, we shall conduct an election by secret ballot among the employees in the appropriate unit to determine whether or not they desire to be represented for the purposes of collective bargaining, and shall place the names of District Council 37, and of Locals 15 and 30 jointly, on the ballot.

DIRECTION OF ELECTION

\_\_\_\_\_ By virtue of and pursuant to the power vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

DIRECTED, that as part of the investigation authorized by the Board, an election by secret ballot shall be conducted under the supervision of the Board of Certification or its agents, at a time, place, and during hours to be fixed by the Board, among the Oilers employed by the City of New York and related public employers subject to the jurisdiction of the Board of Certification, who were employed during the payroll period immediately preceding the date of this Direction of Election (other than those who have voluntarily quit or who have been discharged for cause before the date of election), to determine whether they desire to be represented for the purposes of collective bargaining by D.C. 37, by Locals 15 and 30 jointly, or by neither.

DATED:       New York, N.Y.  
              May 28 , 1970.

ARVID ANDERSON  
C h a i r m a n

ERIC J. SCHMERTZ  
M e m b e r