

OSA v. City,68 OCB 1 (BOC 2001) [1-2001 (Amend Cert)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of	:
	:
THE ORGANIZATION OF STAFF ANALYSTS,	:
	:
	:
-and-	:
	:
THE CITY OF NEW YORK AND	:
RELATED PUBLIC EMPLOYERS,	:
	:
	:
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Decision No. 1-2001

Docket No. RU-1160-94

ORDER AMENDING CERTIFICATION

On February 28, 1994, the Organization of Staff Analysts (“OSA”) filed a petition, docketed as RU-1160-94, requesting that the title Administrative Staff Analyst (MI-MIII) be added to its Certification No. 3-88 (as amended), covering Staff Analyst and related titles. By letter dated August 5, 1994, the City of New York, appearing by its Office of Labor Relations (“the City”), opposed the petition alleging that the title is managerial or confidential.

The Board of Certification (“the Board”) directed that an investigatory hearing be held before a Trial Examiner to determine if the employees in the petitioned-for titles are managerial and confidential and should be excluded from bargaining as contended by the City. The hearing commenced on March 20, 1996, and continued on numerous dates until June of 1999.

Subsequent to the record being closed, the parties informed the Trial Examiner that they had reached a settlement and would be submitting a stipulation for approval by the Board. By letter dated December 28, 2000, the City submitted a Stipulation of Settlement and Memorandum of Understanding (“Stipulation”) concerning this case. An amended version of the stipulation was

submitted on January 8, 2001.

The stipulation provides, in pertinent part, as follows:

WHEREAS, the Organization of Staff Analysts has filed a petition docketed as RU-1160-94 in which the Organization of Staff Analysts seeks to represent certain employees in the title of Administrative Staff Analyst in M-Levels I, II and III of the Managerial Pay Plan; and

WHEREAS, the Office of Collective Bargaining has conducted hearings on this matter; and

WHEREAS, the parties are desirous of resolving their differences and have entered into settlement discussions.

NOW, THEREFORE IT IS AGREED as follows:

1. Employees presently in the title of Administrative Staff Analyst, at M-Level I, except those employees referenced in Paragraphs 6 and 7 of this Stipulation of Settlement and Memorandum of Understanding (“Stipulation”), perform duties and responsibilities similar to those performed by employees in the Unit referred to in Certification Decision No. 3-88 and otherwise share a community of interest with such employees.
2. The Employer shall notify the New York Board of Certification that the Employer has no objection to the Union being certified as the bargaining agent for certain employees in the title of Administrative Staff Analyst and request that the Board amend Board of Certification Decision No. 3-88 consistent with the provisions herein.
3. The title “Administrative Staff Analyst (Non-Managerial)”, Alternate Title Code, #1002A, shall be established for certain employees presently serving in the title of Administrative Staff Analyst at M-Level I and said employees will be designated Administrative Staff Analyst (Non-Managerial). Subsequent to the execution of this Stipulation, employees appointed or promoted to the title of Administrative Staff Analyst (Non-Managerial) whose duties are neither managerial nor confidential will be represented by the Union except as otherwise provided in Paragraphs 6 and 7.
4. Upon certification of the Union as the collective bargaining agent of the employees in the title of Administrative Staff Analyst (Non-Managerial), the City of New York shall enter into a Supplemental Agreement to the Staff Analysts 1995-2000 Agreement (“Unit Agreement”). Concurrent with the signing of this Stipulation, the

City of New York has agreed to the terms of this Stipulation. The New York City Housing Authority shall be bound by the terms of the Supplemental Agreement to the extent provided in the election letter, dated July 3, 1968, extending application of the New York City Collective Bargaining Law to the New York City Housing Authority and its employees.

5. The Union withdraws its petition to represent employees in the title of Administrative Staff Analyst, M-Levels II and III. The Organization of Staff Analysts will be prohibited from filing a petition to represent Administrative Staff Analysts M-Levels II and III for collective bargaining for a period of three (3) years from the date of the execution of this Stipulation. Any proceedings to represent Administrative Staff Analysts M-Levels II and III subsequent to the date of the three (3) year moratorium shall be conducted *de novo*.
6. All present and future employees of the following agencies and offices in the title of Administrative Staff Analyst shall be excluded from the provisions of this Stipulation: Office of Labor Relations; Office of Management and Budget; Office of Operations; Department of Investigation; Office of Collective Bargaining; the District Attorneys Offices; and, "City Hall Offices" designated by "002" including, but not limited to: Mayor's Advisory Committee on Appointments, Art Commission, Citywide Coordinator for AIDS Policy, Community Assistance Unit, Office of Construction, Mayor's Office of Contracts, Office of the Criminal Justice Coordinator, Office for People with Disabilities, Office of Emergency Management, Mayor's Office of Fiscal and Administrative Management, Citywide Services and Correspondence Services, Office of Health Services, Office of Intergovernmental Affairs, Mayor's Press Office, and Mayor's Voluntary Action Center. Any agencies or offices that succeed the above named agencies and/or offices will also be covered by this Paragraph 6.
7. In addition to the positions described in Paragraph 6, certain other positions have been designated "Managerial" or "Confidential" by agreement of the parties. (See: List A) Another fifty (50) Administrative Staff Analyst, M-Level I, positions shall be designated "Managerial" by the City for all intents and purposes. (See: List B). The City reserves the right to change the in-house title of any position designated in Lists A and B, and such change shall have no effect on the continuing classification of the position as Managerial and Confidential.

The stipulation having been agreed to by the parties thereto, and it appearing to the satisfaction of the Board that the terms of the stipulation are consistent with the record adduced

herein and with the rights established under applicable law,

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 Certification No. 3-88 (as amended) be, and the same hereby is, further amended to include the title Administrative Staff Analyst (Non-Managerial), Level I, subject to existing contracts, if any.

DATED: January 9, 2001
New York, New York

MARLENE A. GOLD
CHAIR

GEORGE NICOLAU
MEMBER

DANIEL G. COLLINS
MEMBER

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

Administrative Staff Analyst (Non-Managerial), Level I
Code No. 1002A