

DC 37 V. CITY, 8 OCB 35 (BOC 1971) [Decision No. 34A-71 &35B-71
(Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

- - - - - X

In the Matter of

DISTRICT COUNCIL 37, AFSCME,
AFL-CIO, and its affiliated
Locals

DECISION NOS.35A-71
35B-71

-and-

THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS

DOCKET NOS. RU-238-70
RU-239-70
RU-248-71

- - - - - X

DECISION AND ORDER

District Council 37, AFSCME, AFL-CIO (herein called
Petitioner), filed its petitions herein on December 7, 1970,
and January 20, 1971, respectively, seeking (in RU-238-70
and RU-248-71) to amend Certifications CWR-13/67 and
CWR-18/67, previously consolidated by, Decision No.69-70,
by adding thereto the titles of Assistant Right of Way
Negotiator and Right of Way Negotiator. The said con-
solidated certification covers a non-supervisory appraising
and assessing unit. The petitioner also filed a petition
on December 7, 1970 (in RU-239-70) to amend consolidated
Certifications CWR-14/67 and CWR-19/67 (Decision No.69-70),
presently covering a supervisory appraising and assessing
unit, by adding thereto the title of Senior Right of Way
Negotiator.

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

Decision Nos. 35A-71
35B-71

2.

Docket Nos. RU-238-70
RU-239-70
RU-248-71

I. Undisputed Matters.

It is undisputed, and we find and conclude, that Petitioner is a public employee organization in fact and within the meaning of the New York City Collective Bargaining Law.

II. The Appropriate unit and Representative Status

In its Decision No. 69-70, this Board consolidated and amended certain certifications previously issued by the New York City Department of Labor to form the following units: (a) a non-supervisory unit consisting of Appraisers (Real Estate), Senior Appraisers (Real Estate), Assistant Assessors, Assessors, and their restored Rule X equivalents (CWR-18/67 and CWR-18/67); and (b) a supervisory unit-consisting of Supervising Appraisers (Real Estate), Senior Assessors, Supervising Assessors, and their restored Rule X equivalents (CWR-14/67 and CWR-19/67). These employees perform various levels of work involving valuation-of real property. The titles of Right of Way Negotiator and Senior Right of Way Negotiator are similarly concerned with valuation and acquisition of real property and fixtures. Since the former title is non-supervisory and the latter is supervisory, we find that they belong, respectively, in the cited non-supervisory and supervisory units.

Decision Nos. 35A-71
35B-71

3.

Docket Nos. RU-238-70
RU-239-70
RU-248-71

While the City has expressed no opposition with respect to the Right of Way Negotiator and, Senior Right of Way Negotiator, it opposes the certification of Assistant Right of Way Negotiator on the grounds that the title has not been established, nor is there any request pending for its classification. Our investigation confirms this and, in addition, shows that there are no such budgeted positions or employees. Accordingly we shall exclude Assistant Right of Way Negotiator from the units herein and shall dismiss the petition in Case No. RU-248-71.

Finally, the City states that "the most appropriate unit is one consisting of a consolidation of CWR-13/67, 14/67, 18/67, and 19/67." Petitioner opposes this.

Since such a consolidation would require a self-determination election among the supervisory employees involved, and since this Board has, consistent with the stricture of the NYCCBL, refused to establish a mixed unit of supervisory and non-supervisory employees without a self-determination election requested by supervisory employees, we shall not order such an election in the absence of a

request by the supervisory employees herein.

Decision No.35A-71
35B-71

4.

Docket Nos. RU-238-70
RU-239-70
RU-248-71

Our investigation shows that a majority of the employees in each of the appropriate units have authorized dues check-off in behalf of Petitioner. We shall amend the cited certifications accordingly.

O R D E R

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 filed in Case No. RU-248-71 be, and the same hereby is, dismissed; and it is further

ORDERED, that Certifications CWR-13/67 and CWR-18/67, as consolidated by Decision No.69-70, be, and the same hereby are, amended to include the, title of Right of Way Negotiator; and, as amended, such unit shall be cited as "Decision No. 35A-71" and shall consist of the following titles: Appraiser (Real Estate), Senior Appraiser (Real Estate), Assistant Assessor, Assessor, Right of Way Negotiator, and employees in restored Rule X titles serving in positions equated thereto, subject to existing contracts, if any; and it is further

Decision Nos. 35A-71
35B-71

5.

Docket Nos. RU-238-70
RU-239-70
RU-248-71

ORDERED, that Certifications CWR-14/67 and CWR-19/67, as consolidated by Decision No. 69-70, be, and the same hereby are, amended to include the title of Senior Right of Way Negotiator; and, as amended, such unit shall be cited as "Decision No. 35B-71" and shall consist of the following titles: Supervising Appraiser (Real Estate), Senior Assessor, Supervising Assessor, Senior Right of Way Negotiator, and employees in restored Rule X titles serving in positions equated thereto, subject to existing contracts, if any.

DATED: New York, N.Y.

May 10, 1971

ARVID ANDERSON
CHAIRMAN

WALTER L. EISENBERG
MEMBER

ERIC J. SCHMERTZ
MEMBER

Decision Nos. 35A-71
35B-71

Docket Nos. RU-238-70
RU-239-70
RU-248-71

The titles and title code numbers of the employees affected-by this decision are as follows

Non-Supervisory: (Unit-A)

| | |
|--------------------------------|-------|
| Appraiser (Real Estate) | 40410 |
| Senior Appraiser (Real Estate) | 40415 |
| Assistant Assessor | 40205 |
| Assessor | 40210 |
| Right of Way Negotiator | 40430 |

Supervisory (Unit B)

| | |
|-------------------------------------|-------|
| Supervising Appraiser (Real Estate) | 40420 |
| Senior Assessor | 40215 |
| Supervising Assessor | 40220 |
| Senior Right of Way Negotiator | 40431 |