

Local 621, S.E.I.U., 8 OCB2d 32 (BOC 2015)

(Rep.) (Docket No. AC-1593-14)

Summary of Decision: The Union sought to amend Certification No. 55-70 to add the title Director of Motor Equipment Maintenance (Sanitation), contending that changed circumstances mandate that the Board re-evaluate the title and add it to the bargaining unit. The City argued that the title should remain excluded from collective bargaining as managerial. The Board held that the title is eligible for collective bargaining with the exception of the Deputy Commissioner for Support Services position that the parties agree is managerial. (*Official decision follows.*)

**OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION**

In the Matter of the Certification Proceeding

-between-

LOCAL 621, S.E.I.U.,

Petitioner,

-and-

**THE CITY OF NEW YORK and
THE NEW YORK CITY DEPARTMENT OF SANITATION,**

Respondents.

DECISION AND ORDER

On December 5, 2014, Local 621, S.E.I.U. (“Union”) filed a petition requesting that the Board of Certification add the title Director of Motor Equipment Maintenance (Sanitation) (Title Code No. 95252) (“Director”), to Certification No. 55-70, a bargaining unit including titles such as Supervisor of Mechanics (Mechanical Equipment), Supervisor of Ironwork, Deputy Director of Motor Equipment Maintenance (Sanitation), Administrative Director of Fleet Maintenance, and Director of Motor Transport. Respondents, the City of New York (“City”) and the New York City Department of Sanitation (“DSNY”), argue that the title is managerial and, therefore,

the title should be excluded from collective bargaining pursuant to § 12-305 of the New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3) (“NYCCBL”). Based on the record, the Board holds that the title is eligible for collective bargaining with the exception of the Deputy Commissioner for Support Services position that the parties agree is managerial.

BACKGROUND

The Trial Examiner conducted a hearing in this matter and determined that the totality of the record established the relevant facts to be as follows:

The civil service title of Director is utilized solely by DSNY. Currently, there are three positions that hold the Director title. Two of the positions are held by William Wehner and Rocco DiRico, Deputy Commissioner for Support Services. The third position was most recently held by Paul Pisani, who retired in August 2014. That position has remained vacant since Pisani’s retirement. The Union seeks to represent Wehner’s and Pisani’s positions.¹ Over the course of four days of hearings, Wehner, Pisani, and DiRico testified, in addition to Union President Joseph Giattino and Joseph Esposito, a former DSNY Supervisor of Mechanics (Mechanical Equipment) (“SMME”).

The two positions at issue in the Director title are located in the Department of Support Services (“DSS”). DSS supports the uniformed side of DSNY, which cleans the streets, collects refuse, and clears snow and ice. Within DSS, there are multiple bureaus, the largest of which are

¹ The Union explicitly stated that it is not seeking to represent Deputy Commissioner DiRico. (Union Post-hearing Brief (“Union Br.”), p. 1)

the Bureau of Building Management (“BBM”) and the Bureau of Motor Equipment (“BME”).² The BBM repairs and maintains the facilities, including garages, used to house vehicles and equipment. The BME is responsible for the purchase, repair and maintenance of DSNY’s vehicle fleet throughout the City as well as operations in DSNY’s Central Repair Shop (“CRS”), located in Queens. The BME employs about 800 people and has an expense budget of \$25 million. DSNY’s field operation falls under the BME’s umbrella and is made up of district shops and borough commands (also known as borough shops). The BME currently oversees approximately 7500 vehicles in 80 field locations across the City. The district shops house, repair, and maintain vehicles and equipment. There are two to three mechanics in each district shop. The district locations fall under the supervision of four borough commands: Manhattan/Bronx, Cioffe, Staten Island, and Queens/CRS.

The job specification for the Director title provides as follows:

Under administrative direction, with the broadest scope for the exercise of independent judgment, directs the activities of a large number of employees in the repair and maintenance of Department of Sanitation’s motor equipment at many shops and locations throughout the City; performs related work.

(City Ex. 2) In addition, the job specification sets forth the following duties and responsibilities:

Serves as the overall director of a Central Repair Shop or many support shops, or Field Borough Shop and garages engaged in the repair and maintenance of motor equipment. Is responsible for the planning, allocation and work procedures of personnel engaged in motor vehicle repair, maintenance and support services. Is responsible for the planning, direction and control of Central Repair Shop or Field Borough Shop support services such as parts and supplies. Coordinates repair and maintenance functions with

² DSS contains three other units: the Vehicle Acquisition and Warranty Unit (“VAW”), the Department of Materials Management (“DMM”), and the Administration Unit. The VAW drafts vehicle specifications and oversees the repair of vehicles under warranty. The DMM is responsible for procuring, storing and issuing parts required to maintain DSNY’s vehicle fleet, while Administration handles human resources for DSS, and oversees disciplinary proceedings.

other major organizational units within the Department including Budget, Personnel, Materials Management, Production Control and Engineering; makes administrative and managerial decisions consistent with Department policies.

Manages Personnel Services, OTPS, and overtime budgets for area of responsibility. Manages and administers OTPS contractual services (i.e. tractor repair, tire repair, engine and transmission rebuilding contracts).

Implements productivity improvements and other improvement programs which contribute to a more efficient operation.

Develops and initiates Capital Improvement/Building Projects as may be required to upgrade present or to provide new operating facilities. Coordinates various phases of such projects when implemented. Initiates and monitors purchases and funding for the acquisition of capital equipment within area of responsibility.

Devises, implements, monitors and controls, through subordinate staff members, systems which provide information upon which policy and other managerial decisions must be made.

Implements programs which effectively reduce operating costs while maintaining or increasing service levels.

Establishes and maintains productivity and profitability monitoring systems (i.e. "Profit Centers"). Utilizes data provided to make decisions regarding policy which will improve productivity, profitability, etc.

(*Id.*)

Representational History of the Director Title

In 1986, the Union filed petitions with the Board seeking to add three employees to the Director title and seven employees to the title of Deputy Director of Motor Equipment Maintenance (Sanitation) ("Deputy Director"), all of whom were employed by DSNY, to Certification No. 55-70. Hearings on the eligibility of the two titles for collective bargaining were held in 1987, and the record was closed in early 1988. On May 19, 1992, the Board issued a Decision and Order. *See Local 621, SEIU, 50 OCB 7 (BOC 1992)* ("1992 Decision").

In the 1992 Decision, the Board held that the employees in the Director title are managerial and ineligible for bargaining. It also held that, with the exception of one position, all employees in the Deputy Director title are non-managerial or confidential and therefore eligible for bargaining.³ In reaching its determination, the Board stated:

While it is not disputed that Directors and Deputy Directors perform many of the same duties . . . we are persuaded by the fact that the Directors' duties and responsibilities are much broader in scope in that they involve the BME's operation City-wide. Deputy Directors, on the other hand, function basically as liaisons between the field and the BME hierarchy; they gather information from the shops and garages under their command and pass it along to the Director.

Local 621, SEIU, 50 OCB 7, at 34-35. As to Directors, the Board found that they set priorities for the entire operational area and determine what actions must be taken to meet the goals and standards set by the agency. In doing so, the Board determined that Directors establish rules and regulations to effectively run their units. They are also given substantial discretion and authority to carry out their duties. The Board found that Directors are the highest level of field employees in the BME, and noted that its determination comports with prior Board decisions in which findings of managerial status were based, at least in part, on a determination that such employees were the chief field officers in the agency.

As the chief field officers, the Board found that Directors were frequently consulted and invited to attend meetings with the Deputy Commissioner, representatives of other City agencies, and occasionally the Commissioner. At these meetings, they were asked to make recommendations on matters affecting their unit, as well as the agency in general and the City. Those recommendations were given substantial weight. The Board determined, for example,

³ The Board determined that one Deputy Director position was both managerial and confidential and therefore ineligible for bargaining.

that a Director, in consultation with the Deputy Commissioner, was responsible for deciding which City agencies would be given the opportunity to participate in the Contracting-In program.⁴ The Board further found that Directors regularly participate in the “essential process” that results in a policy proposal and the decision to put such proposal into effect. *See Local 621, SEIU, 50 OCB 7, at 33.*

In contrast, the Board found that Deputy Directors only occasionally attended meetings, the purpose of their attendance being to supply technical data, not to make recommendations. Moreover, while they are expected to stand in for Directors in their absence, they are not permitted to act in “important matters, such as hearings in ‘severe’ disciplinary cases.” *Local 621, SEIU, 50 OCB 7, at 35.* Rather the matter would be held over until the Director returns.

Subsequent to the closing of the record in the 1992 Decision, two of the three Director positions were eliminated. By 1998, only the Director of Field Operations position remained in existence. Between 1999 and August 2012, the only person to hold the Director title was DiRico.⁵ In August 2012, DSNY promoted Wehner and Pisani from Deputy Directors to the Director title. According to DiRico, both were promoted because they “needed to be compensated in a big way” for their workload. (Tr. 370) As a result of their promotion to an exempt title, they were no longer members of the bargaining unit.

Changes Affecting the BME Following the 1992 Decision

Subsequent to the issuance of the 1992 Decision, a number of changes occurred that resulted in the downsizing of the BME’s operation. In 1996, the Contracting-In program, in which DSNY participated since approximately 1987, was discontinued. As stated above, under

⁴ Under the Contracting-In program, DSNY was assigned to make repairs on vehicles for other City agencies. The repairs were made by BME mechanics exclusively at the CRS.

⁵ However, DiRico did not hold the Director title between 2005 and 2009.

the program, DSNY made repairs on vehicles for other City agencies. The Contracting-In program required the Directors to work with City agencies to determine the logistics of vehicle repairs. At the time, it was the Directors who had the technical knowledge to facilitate the program, not their superiors. Also at that point in time, CRS handled all the large repairs and rebuilding.

In 2000, the City's largest landfill, Fresh Kills on Staten Island, closed. In subsequent years, two other landfills, Fountain Avenue and Pelham Bay, also closed. BME employees had worked at these three landfills. The Director in charge of field operations at that time was directly responsible for all three landfills and the BME personnel who worked there.

By 2003, the CRS had downsized "substantially," due to the discontinuation of the Contracting-In program and other factors. (Tr. 314) Many of the repair shops that were operating within CRS had been closed or combined with other shops. CRS, which had once been a separate unit within the BME, was merged into field operations.

Years later, in April 2012, former Mayor Bloomberg issued Executive Order 161 ("EO 161"), which resulted in an expansion of the BME's operation. EO 161 directed the Department of Citywide Administrative Services ("DCAS") to develop a plan for the consolidation and sharing of the repair, maintenance, garage, and fueling resources of the City's vehicles and motorized equipment among various City agencies. The plan was labeled the City Fleet Service Consolidation Plan ("Fleet Consolidation"). Prior to the issuance of EO 161, in 2010 and 2011, the Mayor's Office of Operations held regular meetings regarding the logistics of consolidating fleets. The meetings were attended by the personnel who headed the fleets at various agencies, including the New York City Fire Department ("FDNY"), the Department of Transportation ("DOT"), the Department of Environmental Protection ("DEP"), and many others. In

approximately 2011, DCAS determined that DSNY would take over the maintenance and support of all the heavy and medium duty vehicles of certain City agencies. As a consequence, DSNY's BME became responsible for the service and repair of an additional 1100 vehicles, resulting in a 25 percent increase in DSNY's Citywide fleet responsibility. This involved bringing in not only vehicles but additional personnel and funds to DSNY, and the BME in particular.

Duties of Wehner and Pisani as Deputy Directors

Wehner and Pisani have spent their entire DSNY careers working in the DSS. Wehner was hired by DSNY in July 1981. Pisani was hired by DSNY in 1979, initially worked as a junior auto service worker, and became an auto mechanic shortly thereafter. Subsequently Pisani was promoted to SMME in 1996, and to Deputy Director in 2001. In 2008, he was again promoted to Deputy Director for Field Operations. In 1988, Wehner was provisionally promoted to the SMME title. He passed the test, became permanent, and continued to be promoted over the years. In 2004, Wehner became a Deputy Director.⁶ Both Wehner and Pisani remained in their Deputy Director titles until August 2012, when they were promoted to the Director title.

As a Deputy Director, Wehner was responsible for oversight of all the borough shops, as well as the BBM, VAW, Materials Management, and Administration Units.⁷ From his

⁶ The City asserts that Wehner was given the title of Executive Deputy Director of Motor Equipment and Field Operations in 2004. There is no testimonial evidence to support the assertion that Wehner's in-house title was "Executive" Deputy Director and not simply Deputy Director. However, the 2005 BME organizational chart lists Wehner's title as Executive Deputy Director. (*See* Jt. Ex. 4.)

⁷ Wehner compared his current job duties as Director to those he held as a Deputy Director in 2005, when he testified regarding his job duties in another proceeding before the Board. Following the 2005 hearing in that proceeding, the Board issued a decision. *See Local 621, SEIU*, 78 OCB 2 (BOC 2006) ("ADFM Decision"). In the ADFM Decision, the Board determined that employees in the Administrative Director of Fleet Maintenance ("ADFM") title

appointment as Deputy Director in 2004, until 2008, Wehner directly or indirectly supervised all BME operations in CRS and all BME employees, including those working in the borough commands and district shops throughout the City. He also directly or indirectly supervised all employees at BBM, VAW, Materials Management, and Administration. Overall, approximately 1,000 employees directly or indirectly reported to Wehner when he served as a Deputy Director.

Pisani was promoted to Deputy Director of Field Operations in 2008 and thereafter assumed Wehner's field operation duties, including personnel and budget duties for the field offices. Wehner retained all supervisory duties relating to the BBM, VAW, Materials Management, and Administration Units.

As Deputy Directors, Wehner and Pisani reported directly to Deputy Commissioner DiRico and saw him every day. DiRico testified that Wehner and Pisani provided him with "high level summaries and exceptions," and advised DiRico on how to correct the exceptions. (Tr. 363) Pisani testified that, as Deputy Director of Field Operations, he was in regular communication with DiRico, and frequently sat in on meetings with him as his "right-hand man." (Tr. 237) Sometimes he would attend the meetings to supply DiRico with requested data. Pisani also appeared at first deputy commissioner meetings in DiRico's place and at Wehner's request to report on the BME and BBM. A regular part of Pisani's duties was to compile information from the borough shops and provide an executive summary to DiRico. For example, he would report on how many garbage trucks are out of service.

Wehner occasionally attended meetings with the DSNY Commissioner, and stood in for DiRico at first deputy commissioner meetings when DiRico was unable to attend. Pisani took

are eligible for collective bargaining. In reaching its conclusion, the Board stated that the duties of ADFMs "more closely mirror those of Deputy Directors at DSNY rather than Directors." *Id.* at 20.

over the responsibility of attending first deputy commissioner meetings in DiRico's absence following his elevation to Deputy Director of Field Operations. As Deputy Director, Wehner worked with other DSNY deputy commissioners, including Larry Cipollina in Administration and Robert Orlin in the Legal Affairs Bureau. He worked with Cipollina on personnel, fiscal and budget matters. When working with Cipollina, he was privy to personnel information, which he considers confidential. He worked with Legal Affairs in matters involving FOIL requests involving equipment or facilities, among other matters.

Wehner also worked with other agencies, including DCAS. His involvement with DCAS primarily involved ensuring that the agency didn't exceed the number of vehicles it was supposed to have. He also worked with the City's Law Department to provide them with data regarding accident investigations and FOIL requests.

As a Deputy Director, Wehner had greater responsibility than other Deputy Directors and was higher up in the chain of command. Other Deputy Directors were in charge of the borough shops and reported through Wehner to DiRico. Those Deputy Directors did not have access to the same type of information to which Wehner had access, such as information relating to personnel and discipline.⁸ Moreover, as a Deputy Director, Wehner assisted DiRico and therefore his duties were more City-wide than borough-specific. Other Deputy Directors of the borough offices manage only their own boroughs. Wehner was also paid more than other Deputy Directors prior to being promoted to Director.

⁸ Wehner clarified that the Deputy Directors of the borough commands have access to the personnel files of employees in their jurisdiction; however, they do not have access to other information, such as HIPAA files, to which Wehner had access as a Deputy Director, and to which he continues to have access as a Director.

In his role as Deputy Director for Field Operations, Pisani oversaw all the borough shops. He testified that he did not make policy. With regard to budgetary matters, Pisani was in charge of approving requests from the borough shops for monies outside of their allotted working budgets. Pisani had discretion to approve the request if it was “day-to-day little” stuff,” but if it was something major, he would discuss it with DiRico. (Tr. 236) An example of a major request for overtime would be if a massive number of trucks had to be inspected for loose bolts and he needed a lot of employees to work on the problem.

Wehner was also heavily involved in administrative matters as a Deputy Director, and worked closely with the head of the Administration Unit. For the BME, Wehner was in charge of allocating funds for the annual personnel services overtime budget to the borough shops and equipment operations. He also oversaw allocations for special projects. On occasion, the head of a borough shop would request to exceed their budget. Wehner would review the request and, in consultation with DiRico, determine whether to approve the request. Generally, Wehner consulted with DiRico regarding all “major” requests, while Wehner handled all other requests. (Tr. 101) At BBM, Wehner handled requests for building maintenance on priority jobs and served as a liaison between the BBM chiefs and DiRico to resolve issues.

Wehner was consistently involved in the promotion process. As Deputy Director, he was on a panel that determines who is selected for elevation within DSS, including title upgrades. Other panel members included DiRico, the head of the Administrative Unit, and the Deputy Director for Field Operations. Between 2005 and 2008, Wehner was also on a hiring panel that evaluated candidates for all levels of positions. Pisani subsequently took over that responsibility following his appointment as Deputy Director for Field Operations. Pisani’s other

responsibilities in that role included conducting interviews for hiring and promotions and making recommendations to DiRico. DiRico generally accepted his hiring recommendations.

As Deputy Directors, both Wehner and Pisani were involved in the disciplinary process. From 2008 forward, all requests for disciplinary action throughout DSS, with the exception of the field offices, were sent up the chain of command to Wehner, and were funneled through him to the head of the Administrative Unit, to draw up paperwork. Upon receiving a request to file charges against an employee, Wehner reviewed it to determine if charges should be filed against the individual, then forwarded it to the Administrative Unit.

When charges are filed against an individual, a panel of hearing officers convenes to conduct an informal conference. Both Wehner and Pisani were on the panel. At the conference, the employee and his union representative present their position and the panel recommends a penalty or dismisses the matter. The employee can then appeal the recommendation to a Step II hearing officer. As Deputy Director, Wehner attended the Step II hearing on behalf of DSNY to present what occurred at Step I. He also occasionally attended a Step III hearing, which takes place at the City's Office of Labor Relations; however, he never appeared at a disciplinary case past Step III or at an OATH disciplinary hearing. Pisani would participate in the Step I conference but rarely appeared at Step II disciplinary conferences, and never participated in Step III hearings or arbitrations. Pisani testified that he never participated in collective bargaining but that he would meet with union representatives and address their complaints.

When unions sought to resolve an issue, DiRico, Wehner, and Pisani would meet with them. Generally, these issues were raised primarily by Local 246 and related to safety or

procedures, but could also involve the denial of a request for a day off for an employee.⁹ Wehner also occasionally headed labor-management meetings, and observed or provided input at others, but has never attended collective bargaining sessions nor been involved in the bargaining process.

With regard to Fleet Consolidation, Wehner testified that as a Deputy Director in 2010 and 2011, he was involved in the meetings chaired by the Mayor's Office of Operations regarding the logistics of consolidating fleets. Once it was determined that DSNY would service all the City's heavy and medium duty vehicles, Wehner decided where to assign personnel from other agencies that came over to work at CRS. Wehner testified that he was also involved in assisting the Deputy Commissioner of Administration in reviewing the budgets for "other than personnel services" and getting funds transferred to DSNY.

Between 2010 and 2013, Wehner regularly met with DEP officials to determine how to implement the decision to move its vehicles into DSNY's operation, including how vehicles would be towed and prepared for maintenance, and what garages would be responsible for repairing which vehicles. Pisani similarly testified that he attended a lot of meetings with representatives of other City agencies regarding Fleet Consolidation as both a Deputy Director and a Director. He made no decisions at those meetings, however.

According to DiRico, Fleet Consolidation imposed additional duties on Wehner and Pisani. It was the job of Wehner and Pisani to understand how the other agencies operated and then manage their operations in the same way they manage DSNY's equipment. According to DiRico, it was largely due to the increased workload imposed by Fleet Consolidation that he promoted Wehner and Pisani from Deputy Directors to Directors in August 2012.

⁹ When Wehner was a Deputy Director, he would also informally discuss labor/management matters with the Union, in addition to Local 246.

Duties of Wehner and Pisani as Directors

Both Wehner and Pisani testified that the majority of their duties and responsibilities did not change when they were promoted from Deputy Director to Director in August 2012. Wehner confirmed that his duties remained the same, with the exception of his responsibilities pertaining to Fleet Consolidation.¹⁰ He continued to supervise, directly and indirectly, approximately

¹⁰ Wehner testified that his Managerial Performance Evaluation Form for the year 2014, which was completed by DiRico, is an accurate representation of his current duties which have not changed since he was promoted to the Director title. The “Position Responsibilities & Performance Expectations” listed on the Evaluation Form include:

1. Goal: Manage Support Service’s Field Operations, VAWD, Material Management, Administration and B.B.M. subdivision responsibilities. Ensure that subdivisions are meeting their goals and priorities. Work in conjunction with Deputy Commissioner in directing the services these subdivisions provide.
Requirements: Support Services role and responsibilities are kept within DSNY guidelines.
2. Goal: Liaison to other Agency Heads and Fleet Managers, including DCAS, NYPD, DOTA, Parks Manage and provide oversight/direction related to DCAS NYCFleet initiatives including FleetFocus . . .
Requirements: Coordinate requests and responses to other Agencies. Ensure that FleetFocus software is being used properly and is configured to match DSNY operational requirements. Ensure that DSNY meets all NYCFleet and other requirements.
3. Goal: Manage labor relations with the unions representing Support Service’s employees.
Requirements: represent Support Services at Grievance hearings, disciplinary hearings, labor/management meetings etc. Communicate with Unions to resolve developing issues. Liaison with the DSNY Director of Labor Relations.
4. Goal: Respond to legal requests/Foil’s from NYLD/BLA for employee trial scheduling, vehicle/facility information. Provide expertise on matters related to B.M.E. and B.B.M. Support Services divisions.
Requirements: Information provided is complete and meets requirements.
5. Goal: Interfaces regularly with Deputy Commissioners, Directors, and other Department/Bureau heads. Responsible for the smooth flow of information to and from Deputy Commission, Directors, and other Bureau heads.
Requirements: Ensures that Department directives, orders, information, requests, etc. are disseminated clearly and concisely to and from Deputy Commissioner’s office, Director, and other Department/Bureau heads.

(City Ex. 4)

1,000 employees. DiRico testified that he currently relies on Wehner for “Everything. I mean issues with the law department, issues with OLR, issues with consolidation, issues with budget, budget management, new needs, new programs.” (Tr. 371)

Pisani testified that his duties did not change when he was promoted to Director, except that he ceased doing mechanic hiring interviews because he was too busy. He performed the same job and supervised the same employees. He continued to report to DiRico and the borough chiefs continued to report to him. According to DiRico, however, Fleet Consolidation forced Pisani to interact with the heads of various agencies to address their headcount, budget, unions, union rules, and seniority.

POSITIONS OF THE PARTIES

Union’s Position

The Union argues that the City bears the burden of proving that the Director title is either managerial or confidential and it has failed to sustain its burden. With regard to confidentiality, the City must come forward with evidence to support this proposition. As to manageriality, the Union asserts that evidence from a prior proceeding before this Board demonstrated that Wehner, who testified at a 2005 hearing as to his duties as a Deputy Director, maintained the same duties upon his 2012 promotion to the Director title. (*See* Jt. Ex. 8; *Local 621, SEIU*, 78 OCB 2). Based on this evidence, according to the Union, Wehner and Pisani were performing the same duties when they were promoted to Director as they had performed as Deputy Directors in 2005. Accordingly, the Union argues, the burden is on the City to demonstrate that there has been a material change in circumstances” subsequent to the Board’s issuance of the ADFM Decision to warrant a reconsideration of the Board’s determination that Wehner’s and Pisani’s duties were

not managerial. (*See* Union Br., pp. 35-36 (citing OCB Rule § 1-02(v)(6)). The Union contends that the City has failed to meet its burden because it offered no evidence of any change in Wehner's or Pisani's job duties.

Alternatively, the Union argues that if the Board finds that it is the Union's burden to demonstrate changed circumstances to represent the Director title, it has met this burden. It contends that the use of the Director title stated by the Board in the 1992 Decision, "for individuals who reported to the Deputy Commissioner and were in charge of CRS, Field Operations, and Special Projects," no longer exists. The Union argues that it presented un rebutted proof that the duties of the Directors at issue have changed materially since the 1992 Decision. Specifically, it asserts that this change has resulted from: (1) the elimination of the Contracting-In program; (2) the closing of the landfills; (3) the reduction in the size of the CRS; (4) the 2002 appointment of DiRico as Deputy Commissioner of DSS; and (5) the phasing out of the Director position after 1998. It further contends that the BSS in 1987, when the hearings in the 1992 Decision were held, was very different from what it has become "over the course of the last 10 to 15 years." (Union Br., p. 9)

With regard to DiRico, the Union asserts that, unlike his predecessors in senior BME positions, he was better-rounded in terms of his comprehensive understanding of the workings of the BME. He was thus able to make critical decisions that prior individuals in the Deputy Commissioner position did not have the skills to make. Because these prior Deputy Commissioners did not have DiRico's skills, the Union argues, they delegated these decisions to Directors. As a result, the Union contends, DiRico "did not need Directors" to whom he could delegate the kind of tasks that his predecessors were "unable to handle" and thus the Director

position was “eliminated.” (Union Br. p. 16) The Union notes that from 2002 to 2012, there were no Directors “as OCB had understood the title” in the 1992 Decision. (*Id.*)

The Union argues that an analysis of the traditional factors for determining whether Wehner and Pisani qualify as managerial employees reflects that they should not be excluded from collective bargaining.¹¹ Neither Wehner nor Pisani were ever engaged in the formulation of policy and there is no basis in the record for concluding that they formulate policy. The Union notes that Pisani expressly stated that he did not make policy.

According to the Union, additional factors in the record regarding the nature of Wehner’s and Pisani’s work provide no basis for concluding that they formulate policy nor are they indicative of managerial status. Specifically, the fact that Wehner supervises roughly 1000 subordinates, directly and indirectly, does not indicate managerial status, according to the Union. This is because, in the ADFM Decision, this Board previously found that Deputy Directors are non-managerial even though they can supervise “between 63 and 948 employees, directly and indirectly.”¹² (Union Br., pp. 45-46 (quoting *Local 621, SEIU*, 78 OCB 2, at 11)) Similarly, the fact that Wehner supervises a fleet of between 6,700 and 7,500 vehicles also provides no basis for finding that he is involved in making policy. The Union asserts that the NYPD had 8,500 vehicles prior to its fleet consolidation, yet this Board still determined that the NYPD’s Director

¹¹ The Union emphasizes that the record reflects that the job duties and responsibilities of Wehner and Pisani most closely mirror those of the ADFM and the Director of Motor Transport for the NYPD, titles which this Board held to be non-managerial.

¹² The Union contends that the ADFM Decision is “highly relevant” to the instant matter because, in reaching its conclusions regarding ADFMs, the Board compared that title to the DSNY Deputy Director title and, in particular, considered Wehner’s status as a Deputy Director. (Union Br., p. 17)

of Fleet Services title is non-managerial in the Director of Motor Transport case.¹³ With regard to the involvement of Wehner and Pisani in budget monitoring and overtime approval, the Union argues that the involvement in overseeing and maintaining budgets is not indicative of managerial status. Moreover, Wehner had performed budget monitoring duties in 2005 as a Deputy Director when he would grant or deny requests from other Deputy Directors to exceed their annual budgets. However, he would consult with DiRico on “major cases.” (Union Brief, p. 47) The Union notes that Pisani took over this budgetary role from Wehner in 2008 and would also consult with DiRico in the case of any major cases. Finally, the Union argues that the attendance at high-level meetings by Wehner and Pisani is not indicative of managerial status. According to the Union, Wehner and Pisani attended meetings with the DSNY Commissioner or other high level officials either to fill in for DiRico when he wasn’t available or to serve as DiRico’s “right hand man.” (Union Br., p. 48) The purpose of their attendance at these meetings was to provide information to DiRico or to report on Support Services, not to formulate policy. Further, the Union argues that nothing about this involvement changed when they became Directors.

As to the second type of manager excluded from collective bargaining, the Union asserts that the record reflects that neither Wehner nor Pisani satisfy that standard for exclusion from collective bargaining because they do not assist directly in the preparation for and conduct of collective negotiations nor do they have a major role in the administration of agreements or personnel administration. The Union contends that neither employee has ever attended or participated in collective bargaining. While they were included in the hiring and promotional

¹³ As to their involvement in Fleet Consolidation, the Union asserts that Wehner and Pisani were not involved in policymaking decisions; rather their role was confined to implementing the process that had been determined by others.

process, the Union contends that their involvement in this process is “insufficient” for a finding of managerial status. (Union Br., p. 51) Wehner and Pisani were both also involved in the disciplinary and contractual grievance process; however, their level of involvement falls short of what the Board requires to be deemed managerial, the Union argues. The Union contends that a document listing Wehner’s 2014 tasks and standards does not correctly reflect what he was doing as a Deputy Director or what he currently does as a Director. It further asserts that the document is “suspect” because it states that Wehner manages Field Operations when he has not been in charge of Field Operations since 2008. (Union Br., p. 53) In addition, Wehner testified that he only spends about five percent of his time on labor relations.

With regard to confidentiality, the Union contends that the City has failed to satisfy either prong of the test for reaching the exclusion based on confidentiality. It asserts that there is nothing in the record to indicate that either Director served in a confidential capacity to anyone. According to the Union, Wehner has access to the same type of personnel records as all the Deputy Directors and SMMEs in the various DSNY locations around the City. The only exception is HIPAA records, which Wehner maintains but are not available to Deputy Directors and SMMEs.

City’s Position

The City argues that when there is a challenge to the managerial nature of a title which the Board previously found ineligible for collective bargaining, the Board has held that the burden is on the union to explain why the Board should not continue to exclude these employees from collective bargaining. The City maintains that the Union has failed to sufficiently plead, or to demonstrate through testimony and evidence, that there has been a material change in

circumstance. It has also failed to show, according to the City, that there has been any change to the fundamental duties of Directors sufficient to warrant reconsideration of the 1992 Decision.

The City asserts that the testimony of DiRico, Wehner, and Pisani established that the duties inherent to the Director title remained unchanged since the 1992 Decision issued. It contends that the “magnitude” of the functions performed by the Directors has remained consistent, and the duties fall squarely within the set of responsibilities provided in the relevant job specification and the Board’s findings. (City/DSNY Closing Brief (“City Br.”), p. 25) Specifically, Directors are involved in “all aspects of fleet maintenance and human resources, including the development of new technologies, procurement of vehicles, budget management, personnel and staffing, and policy creation and development.” (City Br., p. 25) They also interface regularly with, and directly report to, DiRico, who is excluded from bargaining as a managerial employee. The City points out that the Directors are also responsible for planning and managing the programs to supply the DSNY with serviceable equipment needed to accomplish its mission, overseeing a program of scheduled preventative maintenance for fleet vehicles, and ensuring that repair facilities are properly operated and staffed.

Further, the City argues that the testimony of two Union witnesses failed to meet the “threshold standard” set forth by the Board regarding changed circumstances. (City Br., p. 24) Esposito, the former SMME, retired from the DSNY in 2003 and last served as a Union officer in 2004. The City maintains that he possessed no current or direct knowledge of the duties of the Director or Deputy Director titles. He was also uncertain of the exact length of the Contracting-In program. Similarly, according to the City, Union President Giattino never worked as a Director or Deputy Director and presented no testimony relating to specific changes to the duties of employees in those titles.

The City argues that even if the absence of the Contracting-In program or Fleet Consolidation were deemed a sufficient change in circumstance, reversal of the Board's decision is still not warranted because the record does not reflect that the presence or absence of these programs materially altered Directors' duties. The City asserts that it is "not mere coincidence" that DSNY began utilizing the Director title more regularly following the creation of the Fleet Consolidation plan and imposed additional responsibilities on the DSNY. (City Br., p. 26) DSNY had been assigned to provide comprehensive fleet repair and maintenance services for many other City agencies. According to the City, this substantially increased the number of vehicles serviced by DSNY and the DSS, significantly impacted budget and personnel, and imposed additional duties on Wehner and Pisani, who were Deputy Directors at the time. As Commissioner DiRico testified, Fleet Consolidation created a need for additional Directors and "highlighted" the fact that Wehner and Pisani already functioned as Directors and needed to be compensated as such.

In the event that the Board finds reconsideration of the 1992 Decision warranted, the City argues that the Director title must remain managerial because the Directors at issue continue to perform duties that are inherently managerial in nature. The City asserts that DiRico relies on Directors to function as expert advisors, and delegated many of his duties to his Directors. Citing Board case law, the City contends that "an employee who may be assigned to work on special projects, like Directors, who are continuously involved in the assessment of pilot programs, or problems, and who make recommendations that involve alternative methods of performing operations or administrative tasks and may affect personnel and staffing levels is managerial." (City Br., p. 28 (quoting *Local 1407, DC 37*, 36 OCB 5 (BOC 1985))). The City also points out that this Board has recognized that "direct participation in the formulation of

policy is not essential” to a finding of managerial status if the employee plays a role in the overall functioning of the department or unit and that, being an expert advisor to the Commissioner or in full charge of a borough office “may be enough.” (City Br., p. 28 (citing 1992 Decision))

The City asserts that the duties of Wehner and Pisani remained unchanged upon their promotions to Director in August 2012 “due to the fact that they were performing out-of-title work as Deputy Directors.” (City Br., p. 28) It contends that the testimony established that, prior to August 2012, their duties were much broader in scope than the duties of borough shop Deputy Directors. The City asserts that while Deputy Directors in the borough shops gather information and pass it up the chain of command, Wehner and Pisani analyze that data and present it, along with recommendations, to DiRico. It claims that a similar dichotomy between the duties of Directors and Deputy Directors is described by the Board in the 1992 Decision. The City points out that, as both Deputy Directors and Directors, Wehner and Pisani were involved with the BME’s operations on a Citywide level and play a large role in both the analysis and presentation of evidence collected from the borough shops. As discussed by DiRico, they had an “aerial view” over the entirety of the BSS. (City Br., p. 31)

The City further argues that the ADFM and Director of Motor Transport decisions relied upon by the Union are not controlling in this matter. Both decisions concern distinct titles which had less authority, less latitude for independent judgment, and a lesser role in policy formulation than Directors. The City also asserts that the Union mischaracterized Wehner’s testimony in the ADFM proceeding, and that his testimony must be considered in the full context of the BSS organization at that time. It contends that, in fact, Wehner testified in that matter that his duties as “Executive Deputy Director” mirrored those of former Director DiRico, and that he

functioned as the Director of Motor Equipment. (City Br., p. 35) In addition, the City argues, the Board based its decision that ADFMs were not exempt from bargaining, in part, on the fact that several ADFMs were supervised by non-exempt employees. That is not the case in the instant matter, where the Directors are supervised by Commissioner DiRico. The City also contends that the Director of Motor Transport matter is not controlling because that title, which the Board found to be eligible for union representation, is distinguishable from the Director title. Unlike the Directors, the Board found that the Director of Motor Transport lacks involvement with the formulation of policy, labor relations and/or personnel administration and discretion, among other things.

Finally, the City asserts that the Board has a longstanding policy of making no determination as to the managerial or confidential nature of a vacant position unless, prior to the commencement of hearings, evidence is presented that the position has been filled. Here, it is undisputed that Pisani's former position remained vacant when the hearings in this matter took place. It therefore must remain managerial, according to the City.

DISCUSSION

In the instant matter, the Union seeks to accrete the Director title to its bargaining unit. Unlike the majority of petitions that come before the Board, this matter is unique in that the Board has already spoken on the eligibility of the Director title for collective bargaining. In its 1992 Decision, the Board determined that the title is managerial and thus ineligible for bargaining. The Union now asserts that, with the exception of DiRico, the employees currently holding the Director title have been assigned duties similar to or the same as Deputy Directors;

thus the Director title should be placed in the bargaining unit. Consequently, the Union's petition asks the Board to reconsider its designation of the Director title as managerial.

The OCB Rules provide that a Board determination regarding the managerial or confidential status of a title "shall be final and binding." OCB Rule § 1-02(v)(6). The Board will only consider a petition challenging its prior designation of a title as managerial or confidential if the party challenging the designation offers a "statement of a material change in circumstances." *Local 1180, CWA*, 42 OCB 4, at 18 (BOC 1988). OCB Rule § 1-02(v)(6) explicitly provides that such a petition shall demonstrate "such a material change in circumstances subsequent to the Board's prior determination as to warrant reconsideration of the managerial or confidential status of the title or employee." The policy rationale behind this rule is to "prevent unnecessary and duplicative litigation in instances where the Board has made a determination of managerial or confidential status based on a full and complete record." *CWA, Local 1180*, 78 OCB 3, at 7 (BOC 2006); *see Local 1180, CWA*, 46 OCB 3, at 17 (BOC 1990) (noting that the policy underlying this requirement is avoid unnecessary litigation in cases "where there has been no change since the Board last ruled.")

When such a determination is challenged, the petitioner bears the burden of demonstrating changed circumstances. *See, e.g., CSTG, L. 375*, 26 OCB 39, at 12 (BOC 1980) ("where a party seeks reversal of a prior Board determination regarding the managerial or confidential status of employees, the party must plead and show that a change in circumstances has taken place since the Board decision which is sufficient to warrant a different Board determination").¹⁴

¹⁴ We reject the Union's argument that the burden should fall on the City to prove that the Director title remains managerial. The Union maintains that the ADFM Decision should be given preclusive effect and shifts the burden to the City to demonstrate a change in

Here, the Union contends that numerous material changes have occurred since the issuance of the 1992 Decision, including: (1) the elimination of the Contracting-In program; (2) the reduction in the size of the CRS; (3) the closing of the landfills; (4) the appointment of DiRico, who has the knowledge and experience to make the critical decisions that had previously been delegated to his subordinates in the Director title; and (5) the phasing out of the Director position after 1998. It asserts that these changes caused the BME's functions to contract after the 1992 Decision was issued. Consequently, according to the Union, the job duties of Directors were substantially reduced.

The record evidence reflects that these changes occurred in the BME's operation subsequent to the 1992 Decision. Moreover, although the City contends that the Union failed to sufficiently demonstrate changed circumstances, it does not dispute that the specific changes highlighted by the Union occurred. Based on the evidence, we conclude that the referenced changes highlighted by the Union altered the functions of the BME and resulted in material changes in the duties and responsibilities of employees in the Director title. The record reflects that the Fleet Consolidation also substantially altered the BME's nature and function, as well as the duties of Directors, including Wehner and Pisani. Commencing with the planning phase of Fleet Consolidation in 2010, the workload of the Directors substantially increased. Indeed, DiRico, Wehner, and Pisani all testified about their increased responsibilities in the wake of the assignment to DSNY of 1,100 additional medium and heavy-duty vehicles to repair, along with additional personnel. In light of the above, we find that the Union has met its burden of demonstrating changes in circumstances sufficient to warrant the Board's review of the

circumstances since 2006, the year that the Board issued that decision. However, the issue of whether the Director title remains managerial was not before the Board in the ADFM Decision. Accordingly, the Board will not give it preclusive effect.

managerial status of the Director title. *See Local 1180, CWA*, 46 OCB 3, at 18 (clarifying that a finding of changed circumstances is not a ruling on the ultimate issue but merely a “sufficient indication that surrounding circumstances had changed in a manner which might reasonably have resulted in a change in the duties of the positions whose status was at issue.”)

This preliminary burden having been met, we turn to the primary issue: whether the evidence demonstrates that the Director title remains managerial.¹⁵ Determinations concerning managerial and/or confidential status are made consistent with § 201.7 of the Taylor Law. *See, e.g., Local 621, SEIU*, 78 OCB 2, at 16. The relevant language provides:

Employees may be designated as managerial only if they are persons (i) who formulate policy or (ii) who may reasonably be required on behalf of the public employer to assist directly in the preparation for and conduct of collective negotiation or to have a major role in the administration of agreements or in personnel administration provided that such role is not of a routine or clerical nature and requires the exercise of independent judgment. Employees may be designated as confidential only if they are persons who assist and act in a confidential capacity to a managerial employee described in clause (ii).

Taylor Law § 201.7(a).

At the outset, we note that there was no change in the duties of Wehner and Pisani when they were promoted to Directors, but merely a change in their title.¹⁶ As DiRico testified, this title change was intended to financially compensate Wehner and Pisani for the increased workload imposed on them by Fleet Consolidation. The fact that their duties match those of

¹⁵ We do not reach the issue of whether Wehner and/or Pisani are confidential employees as the City asserts, but does not address, this allegation.

¹⁶ The City does not dispute that the duties of Wehner and Pisani did not substantially change when they were promoted to Director but contends that this was because they had been performing out-of-title work. This Board has consistently made its determination based on duties actually performed and does not evaluate whether duties are outside the scope of the title specification. *See, e.g., OSA*, 7 OCB2d 2 (BOC 2014).

Deputy Directors previously found to be non-managerial in the 1992 Decision is a sufficient basis upon which to conclude that these Directors are eligible for collective bargaining. Indeed, in reconsidering the record established in this matter, we reach the same conclusion.

The record reflects that, since being promoted from Deputy Directors in August 2012, Wehner and Pisani have been performing duties that do not exclude them from collective bargaining under the Taylor Law. The record does not indicate that they regularly participate in the “essential process” that results in policy formulation, a critical element in finding that a title is exempt from collective bargaining as managerial. *See Local 621, SEIU*, 50 OCB 7, at 33; *see also OSA*, 3 OCB2d 33, at 29 (BOC 2010) (“[p]articipation in the formulation of policy must be ‘regular,’ ‘active,’ and ‘significant’ to support a finding of managerial status”) (citations omitted) *affd.*, *Matter of City of New York & NYCHA v. Bd. of Certification of the City of New York & OSA*, Index Nos. 402466/2010 & 402496/2010 (Sup. Ct. N.Y. Co. Oct. 27, 2011) (Kern, J.).

Wehner and Pisani serve as senior level field officers and the scope of many of their duties is Citywide rather than borough-specific. In essence, they directly assist DiRico in the supervision and administration of the BME field operations. Nevertheless, we do not find that they determine or have a significant role in effectively determining goals or standards to be met by DSNY, nor do they set priorities for the DSS operation. Wehner and Pisani gather, analyze, and present data to DiRico and other senior DSNY officials. However, in contrast to our findings in the 1992 Decision, we do not find that Directors today evaluate, advise, and/or recommend policy.¹⁷ Moreover, while they exercise substantial discretion in ensuring the continued and efficient operation of BME, their duties primarily consist of implementing

¹⁷ In this regard, Directors today act as expert technical advisors, but do not have as high a level of participation in the policymaking process as noted in our 1992 Decision.

operational goals and ensuring compliance with these goals. *See UFOA, L. 854, 50 OCB 15, at 22-23 (BOC 1992)* (holding that “discretion is not the touchstone” of manageriality if it must conform to the employer’s established policy and be exercised within the boundaries of specified department guidelines). Therefore, there is insufficient evidence to show that Directors regularly participate in agency policy formulation. *See OSA, 3 OCB2d 33, at 69-70* (“An employee who participates in the policy making process in an advisory role, as a resource person, or in a clerical capacity does not formulate policy.”), *affd., Matter of City of New York & NYCHA v. Bd. of Certification of the City of New York & OSA, Index Nos. 402466/2010 & 402496/2010 (Sup. Ct. N.Y. Co. Oct. 27, 2011) (Kern, J.)*.

Our conclusion here is supported by the undisputed fact that, as previously stated, the duties of Wehner and Pisani did not change in any substantial way when they were promoted from Deputy Directors to the Director title in August 2012. Both Wehner and Pisani provided detailed descriptions of their duties as Deputy Directors prior to being promoted in August 2012. As Deputy Director for Field Operations, Pisani oversaw all the borough shops, including operations and personnel, and certain types of budget requests. He was involved in hiring and promotions and also sat on the disciplinary panel. He was in regular communication with DiRico and would attend meetings in DiRico’s absence to supply him with information. He attended meetings with other City agency representatives regarding Fleet Consolidation but did not make any decisions at those meetings. He also did not make policy and never participated in collective bargaining.

As a Deputy Director, Wehner also performed field duties, i.e., supervision of the borough shops, until those duties were transferred to Pisani. Thereafter, Wehner continued to oversee all aspects of the remaining departments within DSS, including BBM, VAW, Materials

Management, and Administration. He was involved in the hiring and promotion process and sat on the disciplinary panel. All requests for disciplinary action were sent up the chain of command to him for assessment before being forwarding to the head of Administration. He reported directly to DiRico and assisted DiRico with matters that had more of a Citywide nature than a borough-specific nature. Wehner occasionally attended meetings with the DSNY Commissioner, and both Pisani and Wehner had represented the DSS at first deputy commissioner meetings in DiRico's absence. Wehner also worked with other DSNY deputy commissioners.

In addition, as Deputy Directors both Wehner and Pisani regularly attended Fleet Consolidation planning meetings with representatives of other City agencies. Wehner made decisions about where to assign personnel from other City agencies that were assigned to work at CRS and assisted the Deputy Commissioner of Administration with budget review and obtaining fund transfers to DSNY.

Pisani testified that his duties remained the same following his promotion to Director, with the minor exception that he ceased doing mechanic hiring interviews. Similarly, Wehner confirmed that, with the exception of his responsibilities pertaining to Fleet Consolidation, his duties remained the same upon his promotion to Director. While both Wehner and Pisani were assigned additional responsibilities relating to Fleet Consolidation following the 2011 decision to have DSNY service the City's heavy and medium duty vehicles, these were a continuation of similar responsibilities that they were assigned as Deputy Directors prior to their August 2012 appointments to Director.

Moreover, the City argues that in the 1992 Decision, the Board relied upon the Citywide scope of the Directors' duties in determining their managerial status. While the organizational scope of the position's duties is relevant to the Board's inquiry, we emphasize that, unlike policy

formulation, this fact is not an essential determinant of managerial status. *See, e.g., USCA*, 66 OCB 4, at 27-28 (BOC 2000) (finding eligible high-level Sanitation Chiefs). Standing alone, having Citywide responsibilities does not compel a finding that Directors are managers under the Taylor Law. We thus conclude that, since being promoted from Deputy Directors in August 2012, Wehner and Pisani have been performing duties that do not exclude them from collective bargaining under the Taylor Law.

We note that titles with similar large-scale fleet operation duties have been found eligible for collective bargaining. *See, e.g., Local 621, SEIU*, 78 OCB 2, at 20 (finding the majority of ADFMs eligible for collective bargaining because they do not have regular involvement in policymaking but rather follow and implement policies pertaining to large-scale fleet operation); *Local 621, SEIU*, 4 OCB2d 57, at 24 (BOC 2011) (holding that Director of Motor Transport (Police Department) title is eligible despite determination that the position is at the “top of the table of organization for the Fleet Services Division and has expansive authority in managing its day-to-day operations”).

Accordingly, we find that the title Director of Motor Equipment Maintenance (Sanitation) is eligible for collective bargaining with the exception of the Deputy Commissioner for the Department of Support Services position, currently held by Rocco DiRico, which the parties agree is excluded as managerial.¹⁸ As there was no evidence in the record to rebut the Union’s

¹⁸ The City misstates the Board’s policy concerning rulings on vacancies. Contrary to the City’s characterization, our policy is not to refrain from making a determination as to the managerial or confidential nature of a vacant position. Rather, the Board has maintained a practice of refraining from ruling on the eligibility for collective bargaining of a vacant title. *See, e.g., Local 375, CSTG*, 18 OCB 25, at 2 (BOC 1976) (confirming that Board will make “no determination at this time with respect to titles that are currently vacant”). The rationale behind this practice is to ensure that the Board is provided with testimony or other evidence from an incumbent or incumbents already in the title in order to ensure that it has information on the duties and responsibilities of employees in that title prior to issuing a determination. Here,

assertion that the eligible employees share a community of interest with the bargaining unit members, we add the title to Certification No. 55-70.

Pisani testified at length as to his duties and responsibilities in the Director title. Accordingly, there is no rationale for precluding consideration of the eligibility for collective bargaining of his former position.

ORDER

Pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

ORDERED, that the employees in the civil service title of Director of Motor Equipment Maintenance (Sanitation) are eligible for collective bargaining, with the exception of the Deputy Commissioner of Social Services position, currently held by Rocco DiRico; and it is further

ORDERED, that Certification No. 55-70 (as previously amended) be, and the same hereby is, further amended to include the civil service title of Director of Motor Equipment Maintenance (Sanitation) (Title Code No. 95252), subject to existing contracts, if any.

Dated: November 10, 2015
New York, New York

SUSAN J. PANEPENTO
CHAIR

CAROL A. WITTENBERG
MEMBER

ALAN R. VIANI
MEMBER



OFFICE OF COLLECTIVE BARGAINING

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STEVEN E. STAR

CITY MEMBERS

M. DAVID ZURNDORFER
PAMELA S. SILVERBLATT

LABOR MEMBERS

CHARLES G. MOERDLER

NOTICE OF AMENDED CERTIFICATION

This notice is to acknowledge that the Board of Certification has issued an Order Amending Certification as follows:

DATE: November 10, 2015 **DOCKET #:** AC-1593-14

DECISION: **8 OCB2d 32 (BOC 2015)**

EMPLOYER: The City of New York, represented by the Office of Labor Relations
40 Rector Street, 4th Floor
New York, New York 10006

AMENDMENT: Certification No. 55-70 has been amended to add the following Title/Code:

Added: **Director of Motor Equipment Maintenance (Sanitation)**
(Title Code. No. 95252)

CERTIFIED/RECOGNIZED BARGAINING REPRESENTATIVE:

Local 621, SEIU, AFL-CIO
75 Darcy Circle
Islip, New York 11751



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LABOR MEMBERS

CHARLES G. MOERDLER

NOTICE OF DESIGNATION

This notice is to acknowledge that the Board of Certification has issued a Decision and Order designating positions managerial and/or confidential as follows:

DATE: November 10, 2015 **DOCKET #:** AC-1593-14

DECISION: 8 OCB2d 32 (BOC 2015)

EMPLOYER: The City of New York, represented by the Office of Labor Relations
40 Rector Street, 4th Floor
New York, New York 10006

CERTIFIED/RECOGNIZED BARGAINING REPRESENTATIVE:

Local 621, SEIU, AFL-CIO
75 Darcy Circle
Islip, New York 11751

DESIGNATION: The Deputy Commissioner of Social Services position, currently held by Rocco DiRico, at the Department of Sanitation is designated managerial and is therefore excluded from collective bargaining.