

SUPREME COURT : NEW YORK COUNTY
SPECIAL TERM : PART I

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In the Matter of the Application of

UNIFORMED FORCES COALITION, INC.,

Index No. 10330/85

Petitioner,

For a judgement pursuant to Article 78 of the CPLR

-against-

OFFICE OF COLLECTIVE BARGAINING, BOARD OF COLLECTIVE
BARGAINING, THE CITY OF NEW YORK, and THE OFFICE OF
MUNICIPAL LABOR RELATIONS,

Respondents.

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HAROLD BAER, JR.:

Petitioner , Uniformed Forces Coalition ("UFC"),
concedes
in this, Article 78 proceeding that its challenge to the
determinations by the respondent Board of Collective Bargaining
("BCB"), declaring an impasse in the bargaining has been rendered
moot
by the collective bargaining agreements ultimately entered into
between UFC and the City of New York.

Turning to the remaining issues, BCB's decision
directing UFC to participate in a consolidated procedure for
resolving the bargaining impasse was not arbitrary or capricious
under all of the circumstances. The test is whether the
determination is without foundation or reason. Trump Equitable
Fifth Ave. v. Gliedman, 28 AD2d 487 (1st Dept. 1984). This is not
the case here, especially in light of the decision by the UFC
constituent members to bargain with the City as one, before
impasse. In addition, BCB's refusal to stay the impasse
procedures pending the charges brought by the UFC alleging
improper employer bargaining, practices, was neither arbitrary,
capricious or illegal. Section 205(5)(d) of the New York Civil
Service Law provides that "... the pendency of (improper
practice]

proceedings ... shall not be used as the basis to delay or interfere ... with collective negotiations ... and no justifiable reason to impose such a delay has been proffered to BCB or this court. See Patrolmen's Benevolent Ass'n. v. BCB, N.Y.L.J., January 2, 1976, p. 6 (Sup. Ct. N.Y.Co.)

Accordingly, the application is denied and the petition is dismissed. This constitutes the decision and judgment of the court.

DATED: APRIL 2, 1986

J. S C.