SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of the Application of

MUNICIPAL POLICE BENEVOLENT ASSOCIATION,

Petitioner,

For an Order and Judgment pursuant to Article 78 of the Civil Practice Law and Rules,

-against-

Index No. 114960/95

OFFICE OF COLLECTIVE BARGAINING, CITY OF NEW YORK,

Respondent.

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SCHLESINGER, J.

Before the court is an application by the respondent, the Office of Collective Bargaining ("Collective Bargaining") to dismiss petitioner, the Municipal Police Benevolent Association's ("PBA") Article 78 proceeding as time barred. The PBA opposes the motion. Additionally, the International Brotherhood of Teamsters, Local 237 ("Local 237") moves to intervene and to be added as a party respondent.

The PBA challenges a decision and order issued by the Board of Certification of the Office of Collective Bargaining denying petitioner's attempt

to decertify Local 237. Local 237 is the bargaining representative of approximately two thousand individuals employed in the "Special Officer" Title. The PBA maintained that special officers are essentially peace officers whose interests are not adequately represented by Local 237.

The respondent rendered its decision and order on March 23, 1995. The decision was served on the PBA by certified mail on March 27, 1995. Petitioner commenced this action on or about July 12, 1995 by serving the respondent with the petition.

Public employees are granted the right to engage in collective bargaining with their employer pursuant to Article 14 of the Civil Service Law. This article is known as the "Taylor Law". The Taylor Law provides that an Article 78 review of any order must be made "within 30 days after service by registered or certified mail of a copy of such order..." (Civil Service Law § 213(a)).

The petitioner's assertion that § 213(a) does not include review of orders made by the respondent Collective Bargaining is without merit.

The case law of this state is overwhelming that reviews of determinations by Collective Bargaining must be made within 30 days of service of the order (see for example Uniform Firefighters Association of Greater New York v. New

York City Office of Collective Bargaining, 163 AD2d 251 (1st Dept, 1990) (and the cases cited therein).

Next, respondent argues, citing Civil Service Employees Ass'n v. Helsby, 439 F. Supp. 1272, that New York City's collective bargaining board is not neutral and should not be given the enforcement powers of the Public Employment Relations Board.

This contention is also without merit. The New York City Charter requires that the Board of Certification (which issued the decision) to be impartial (see Chapter 54, § 1172). Further, Civil Service Employees Association, supra, can be clearly distinguished on its facts. That case concerns a constitutional challenge to decisions taken by the New York State Public Employment Relations Board. The relief sought was an injunction. The case does not raise the statute of limitation question presented here.

In view of the above, Collective Bargaining's application to dismiss this Article 78 proceeding is granted. The motion to intervene is denied as moot.

The foregoing decision constitutes the order and judgment of the court.

Dated: November 22, 1995

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J.S.C.
ALICE SCHLESINGER