

CITY OF NEW YORK  
OFFICE OF COLLECTIVE BARGAINING

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In the Matter of the Impasse

between  
  
DISTRICT COUNCIL 37 and LOCAL 1359  
  
and

REPORT AND RECOMMENDATIONS  
  
OF  
  
IMPASSE PANEL

THE CITY OF NEW YORK OFFICE OF  
LABOR RELATIONS

Case No. I-68-70

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This proceeding arises out of an impasse between the above named parties in their negotiations for a new contract for employees in eight titles in the Rent Examining and Inspecting Group. Hearings were held on March 26, April 12, May 20 and June 17, 1971. By agreement of the parties, post-hearing briefs were submitted on August 13, 1971. Pursuant to the Union's request and with the City's concurrence, no efforts were made to mediate the dispute. Agreements for the three titles of Assistant Rent Examiner, Rent Examiner and Rent Inspector expired on June 30, 1970. Agreements for the five titles of Senior Rent Examiner, Supervising Rent Examiner, Principal Rent Examiner, Senior Rent Inspector and Supervising Rent Inspector expired on December 31, 1970. During the course of negotiations involving the lower titles, the City proposed and the Union concurred in undertaking negotiations for all eight titles. As of March 31, 1971, there was a total of 311

employees in these titles. Their distribution, salary ranges, and average earnings are set forth below:

<u>Title</u>	<u>No. of Employees 3/31/71</u>	<u>Salary Range</u>		<u>Average* Earnings</u>
		<u>Min.</u>	<u>Max.</u>	
Assistant Rent Examiner	38	\$6,450	\$8,765	\$7,277
Rent Examiner	142	7,500	10,450	9,086
Senior Rent Examiner	34	9,300	13,050	11,774
Supervising Rent Examiner	6	10,500	14,500	13,142
Principal Rent Examiner	4	13,000	16,250	14,675
Rent Inspector	81	6,800	9,115	7,998
Senior Rent Inspector	5	8,500	12,050	10,949
Supervising Rent Inspector	1	10,200	13,150	12,800

The parties are at impasse over the following issues:

1. Duration of the Agreement.
2. Salary increases, including a cost-of-living adjustment every six months.
3. Increases in minimum rates.
4. Promotional guarantees.
5. Assignment differential for "Control Chiefs."
6. Establishment of the position of Rent Examiner Trainee to replace the present Assistant Rent Examiner Title.
7. Increased promotional opportunities for Rent Inspectors.

Certain issues were settled during negotiations and were noted

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\*Salary Run for April 1970 adjusted for increases through December 31, 1970 (Un. Ex. 16).

on the record: Welfare Fund contributions are to be continued at, or raised to, \$125 per year until January 1, 1971, when City-wide provisions are to apply, and standard District Council 37 provisions for Union recognition, dues, check-off, grievance procedure, etc. are to be continued.

#### BACKGROUND

The position titles involved in this proceeding are in the field operations unit of the Office of Rent Control which is a division of the Department of Rent and Housing Maintenance in the Housing and Development Administration.

Rent control was initially established as a function of the New York State government, and as such, was financed and administered by the State. In May 1962, responsibility for the administration of rent control in New York City was shifted to the City while the State continued to administer such control in other localities. Throughout its existence, operations of the City Office of Rent Control have been wholly funded by the State.

In August 1970, a new rent control law, governing an estimated 1.2 million apartments in the City, went into effect. This law called for the computerization of rent control to be based on data submitted by landlords for the purpose of determining a maximum base rate rent formula that would become effective January 1, 1972, and could automatically be, adjusted thereafter. The work involved in effecting the transition from manual to computerized processing was said to entail "a massive clerical overload" that would "ultimately affect every Office of Rent Control employee."

At its 1971 session, the Legislature enacted a decontrol law which decontrolled apartments that became vacant on or after June 30, 1971. In appropriating funds for the City's rent control operations, the Legislature reduced its funding from eleven million dollars to eight million dollars for the current fiscal year.

On August 15, 1971, the President promulgated the national wage and price freeze. This development occurred immediately after the parties had submitted their briefs. Thus, the parties have had no opportunity to present their views concerning the effect of the freeze on the City's rent control operations and the wage issues involved in this proceeding. With respect to the rent control operations, published reports seem to indicate that the Office of Emergency Preparedness of the Federal government may have preempted, to an extent which at this date is still uncertain, some of the rent control functions previously performed by the City's Office\*.

With respect to the wage freeze, it does seem unlikely that any salary increases which may result from this proceeding can be implemented before November 15, 1971. The situation is, moreover, further complicated by the fact that at the present time there is little indication as to precisely what increases will be permitted thereafter. Yet, despite these uncertainties, the parties are

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\*The New York Times (September 5, 1971) quotes the Head of OEP's New York Regional Office as saying: "In effect, we are the new rent control authority in the city of New York."

entitled to a consideration of the issues in the posture they had when they were presented. But the impact of the freeze cannot be wholly-ignored. To the extent that it would seem to have some relevance to the issues and some bearing upon the ultimate recommendations, the discussion will so indicate.

#### DURATION OF THE AGREEMENT

The parties are agreed that there should be one common expiration date for all titles but they differ as to what that date should be and the length of their contract term. The preceding Agreements for Assistant Rent Examiners, Rent Examiners and Rent Inspectors had a term of two-and-a-half years, expiring June 30, 1970. For the higher titles of Senior Rent Examiner and Senior Rent Inspector, Supervising Rent Examiner and Principal Rent Examiner, the preceding Agreements had a term of two years, and for the Supervising Rent Inspector, a term of one-and-one-half years, all expiring on December 31, 1970.

The Union seeks a termination date of June 30, 1972, which would mean a two-year agreement for the lower titles and an eighteen-month agreement for the higher titles. The City seeks a two-and-one-half year term for the lower titles and a two-year term for the higher titles, all expiring on December 31, 1972.

We are persuaded that the longer contract term sought by the City is more appropriate. It is more in keeping with the terms of prior Agreements for these titles as well as with recent Agreements covering other titles, and it is more consonant with the City's need

to stabilize, to the extent reasonably possible, its expense budget. Whatever uncertainties may exist under the national wage-price freeze concerning the extent to which any of the salary increases herein recommended can be effectuated either retroactively or prospectively, those uncertainties cannot be resolved on the basis of either of the alternative contract terms proposed by the parties. Accordingly, for the reasons indicated, we recommend a two-and-one-half year term for the lower titles of Assistant Rent Examiner, Rent Examiner and Rent Inspector, and a two-year term for the higher titles of Senior Rent Examiner and Senior Rent Inspector, Supervising Rent Examiner and Supervising Rent Inspector, and Principal Rent Examiner, with a common expiration date of December 31, 1972.

SALARY INCREASES AND MINIMUMS

The Union seeks salary increases and minimum annual salaries as follows:

<u>Title</u>	<u>Effective 7/1/70</u>		<u>Effective 1/1/71</u>		<u>Effective 1/1/72</u>	
	<u>Increase</u>	<u>Minimum</u>	<u>Increase</u>	<u>Minimum</u>	<u>Increase</u>	<u>Minimum</u>
Asst. Rent Examiner	\$1,500	\$7,950	\$750	\$8,700	\$750	\$9,450
Rent Examiner	1,125	8,625	750	9,375	750	10,125
Sr. Rent Examiner	-	-	1,660	10,960	1,150	12,110
Supv. Rent Exam.	-	-	1,800	12,300	1,250	13,550
Prin. Rent Exam.	-	-	1,900	14,900	1,350	16,250
Rent Inspector	1,350	8,150	750	8,900	750	9,650
Sr. Rent Inspector	-	-	1,525	10,025	1,100	11,125
Supv. Rent Insp.	-	-	1,700	11,900	1,300	13,200

In support of these increases, the Union urges that they are appropriate on the basis of the following considerations: (1) to restore the loss in real earnings as a result of rising living costs; (2) to maintain an historical differential in minimums between the City jobs and comparable State jobs as well as to keep pace with increases received by State employees in those jobs; and (3) to approximate the percentage wage gains obtained by other City employees, and certain other inspectorial titles in particular, in the 1970 negotiations.

It is to be noted at the outset that with respect to the treatment of the anticipated rise in the cost of living, the City and the Union proceed from diametrically opposite premises.

The City urges that wage increases over the next two or three years must be confined solely to the anticipated increase in the cost of living which it estimates will be from 3.5% to 4% for 1971 and 3% for 1972. The City claims that because of reduced State aid, it is faced with serious budgetary problems which will require it to curtail services and reduce City employment. It notes that the rent control function was significantly affected by recent decontrol legislation and that rent control has essentially become a holding operation. It claims that as a result of the three million dollar reduction in State financing of this program, increases beyond anticipated cost of living may well be at the expense of the jobs of present employees.

The Union rejects the City's approach, including the limitations it seeks to impose upon the amount of increases resulting

from its budgetary problem. It urges that the only sound procedure for protecting the wage dollar is to provide for periodic wage adjustments after the extent of the price rise is known and has been measured. Hence, it seeks an escalator clause that would provide for cost-of-living adjustments every six months for any rise in the Consumer Price Index in excess of three per cent.

In a period of rising prices, the need for protection against an erosion of real wages is obviously a factor of critical importance in determining the appropriateness of prospective wage increases. The choice is either to provide for an escalator provision or to seek to anticipate the increase-in the cost of living, leaving to future contract negotiations correction of any possible loss in real wages. But even assuming that an escalator provision may be regarded as providing a greater measure of protection, the question still remains whether it is appropriate for inclusion in a public sector contract. Whatever the reason, there apparently has been no widespread use of such provisions in public sector agreements, or at least if there-has been, that fact has not been cited by the Union. More significantly, however, escalator provisions have evidently not been adopted for the approximately 200,000 employees under union contract with the City and, in the face of that fact, it would be difficult to justify such a recommendation for a unit of only some 311 employees.

The cost-of-living approach urged by the City must now be considered in the light of the national wage-price freeze. At this juncture in the development of the national program it is

perhaps too early to discern to what extent the freeze, and its projected successor stabilization program, is apt to have on the anticipated increase in the cost of living. The national policy is of course intended to decelerate the rate of increase, and it will presumably tend to have that effect at least during the 90-day freeze period. Whether the overall increase during the term projected for this contract will ultimately be no more than the City's estimated percentages of 4% for 1971 and 3% for 1972 remains to be seen. The increase in the first eight months of 1971 for Metropolitan New York has been 3.6%, and it would be supposed that if some form of price stabilization is continued, the effect of such policy is more apt to bring the percentage increase in line with the City's estimate than might otherwise be the case.

In any event, the City's cost-of-living approach, although primarily dictated by its budgetary limitations, appears to rest upon certain assumptions which may or may not be the case. It presumes, first, that there has been no loss in real earnings during the life of the preceding contract, second, that no outstanding inequities exist with respect to salaries paid for comparable jobs and, third, that, in point of time, a new round of increases is involved which warrants its own independent considerations and for which the anticipated rise in the cost of living constitutes the most compelling consideration. And it would follow from the latter that title comparisons is a matter of relatively small significance in determining appropriate increases.

The Union contends, however, that there has been an erosion in buying power of the increases provided in the last contract as illustrated by the following table:

	<u>Average Earnings</u>		<u>Percent Change</u>	<u>Dollar Change</u>
	<u>Start of Contract</u> <u>(12/67 Data)</u>	<u>End of Contract</u> <u>(1/71 Data)</u>		
<u>In Current Dollars</u>				
Asst. Rent Examiner	\$6,222.53	\$7,158.00	+ 15.0%	\$935.47
Rent Examiner	7,836.61	9,041.00	+ 15.4	1,204.39
Rent Inspector	6,702.77	7,926.00	+ 18.2	1,223.23
<u>Deflator</u>				
CPI (1967=100)	(Jan. 1968) 101.5	(June 1970) 119.0	+ 17.2%	
<u>In Constant (1967) Dollars</u>				
Asst. Rent Examiner	\$6,130.57	\$6,015.13	- 1.9%	- \$115.40
Rent Examiner	7,720.80	7,597.48	- 1.6	- 123.32
Rent Inspector	6,603.71	6,660.50	+ 0.9	+ 56.79

The City asserts that on the basis of the stated wage increases called for by the last contract, the percentage of real gain for the life of that contract was as follows:

	<u>12/31/67</u> <u>Average</u>	<u>Increases</u>	<u>%</u>	<u>CPI (%)</u> <u>Change</u>	<u>%</u> <u>Real Gain</u>
Asst. Rent Examiner	\$6,222.53	\$1,575	25.3	+ 17.5	+ 7.8
Rent Examiner	7,521.61	1,850	24.5	+ 17.5	+ 7.0
Rent Inspector	6,702.77	1,625	24.2	+ 17.5	+ 6.7

The widely varying results as to whether there was or was not a real gain for these titles are accounted for in part by the fact that the City has made its calculations on the basis of the stated contractual increases while the Union has used average earnings. It appears that not every incumbent was entitled to the full

amount of the stated increase since a portion of the increase was tied to fulfillment of a qualifying length of service period. Although average earnings constitute a more relevant basis for comparisons, the Union relies upon average earnings compiled by the City for January 1971, a date seven months after expiration of the contract for these titles. When the average earnings submitted by the Union in its Exhibit 16 are used, a figure somewhat higher than the earnings in January 1971, and the City's figure for average earnings of the Rent Examiner at the start of the contract is likewise used, the results are significantly different as the following table indicates:

Average Earnings

	<u>Start of Contract (12/67 Data)</u>	<u>End of Contract (4/70 Data)</u>	<u>Percent Change</u>	<u>Dollar Change</u>
<u>In Current Dollars</u>				
Asst. Rent Examiner	\$6,222.53	\$7,277.00	+ 17.0%	\$1,054.47
Rent Examiner	7,521.61	9,086.00	+ 20.8	1,564.39
Rent Inspector	6,702.77	7,998.00	+ 19.3	1,295.23
<u>Deflator</u>				
CPI	(Jan. 1968)	(June 1970)		
(1967=100)	101.5	119.0	+ 17.2%	
<u>In Constant (1967) Dollars</u>				
Asst. Rent Examiner	\$6,130.57	\$6,115.13	- 0.3%	- \$15.44
Rent Examiner	7,410.45	7,635.29	+ 3.0	+ 224.84
Rent Inspector	6,603.71	6,721.01	+ 1.8	+ 117.30

The point is that the very dispute as to the appropriate figures to be used in calculating the effect of the increases suggests that there is a serious question whether the employees in any of these titles can be said to have sustained any real loss during the life of their last contract.

The Union urges nonetheless that increases in excess of 18% are justified in order to restore the value of the package of the previous settlement and the income position of the employees.

But this presupposes that those increases were negotiated solely on the basis of maintaining a constant gain in real wages. There is nothing in the record to indicate support for such an assumption. Nor, for that matter, is there anything to indicate what factors entered into negotiation of that particular wage package. Since the last Agreement was negotiated during a period of rising prices without an escalator provision, it is to be assumed that projected increases in the cost of living was a consideration of no less importance than in the present negotiations. Whatever other considerations may have entered into negotiating those increases, there is no justifiable basis from the state of the record for evaluating their significance except in terms of loss of real earnings. And as to that, it is questionable whether any real loss was sustained by this group of titles, or if there was, that it was of a magnitude which can be considered significant.

With respect to the higher titles, no comparative data on average earnings were provided. Since the average earnings for these titles tend to cluster between the midpoint and the maximum of their salary ranges and since the real gain in their maximums ranges from 1.8% to 4.8%, there is every indication that employees in these titles have incurred no loss in real wages for the period of their last contract.

What does have to be taken into account, of course, is the

increase in the cost of living since expiration of the last contracts. For the contracts which expired on June 30, 1970, there has been an increase of 6.2% in the ensuing year, and for the contracts which expired on December 31, 1970, the increase thus far for the first eight months of 1971 has been 3.6%.

In turning to the matter of outstanding inequities, the Union urges a comparison of the City's salary scales for Assistant Rent Examiner and Rent Examiner titles with New York State salary scales for the comparable positions of Junior Rent Examiners and Rent Examiners. It stresses that from the outset of the City operation in May 1962, the City paid more for its jobs than did the State because, it claims, the City jobs are more demanding. It contends that over the years a differential has been established between the City and State jobs and that, on the average, City minimums have been 13% greater than the State's for the Assistant Rent Examiner and 5% for the Rent Examiner. To restore the balance, it urges a raise of \$1,562 to \$8,012 for the Assistant Rent Examiner and a raise of \$1,802 to \$9,302 for the Rent Examiner.

It would appear from the data submitted that, in the period since the City took over the rent control program in 1962 until expiration of the prior contract in July 1970, the City more often than not had higher minimums than the State for these two jobs. But there is no discernible pattern of a differential between City and State jobs. The Union, conceding that the difference in minimums ranges from 2% to 24% for the Assistant Rent Examiner and from minus 3% to 16% for the Rent Examiner, would calculate

the differential on the basis of the average over the period July 1962 to March 1970. But either there is or there is not an established differential. No average of widely varying differences can serve to create an established differential where none other wise exists.

In comparing the increases which City rent control employees have received with those received by their State counterparts, the Union contends that the City employees are entitled to at least the same percentage increase as the State employees. It calculates that a State Junior Rent Examiner and a Rent Examiner would have received, respectively, a 66.6% and a 64% increase between January 1967 and April 1971 while a City Assistant Rent Examiner and Rent Examiner would have received only 27.4% and 28.1% during that same period. These comparisons are not persuasive. For the period January 1968 to July 1970, an equally relevant period since it coincides with the last negotiated contract for the City titles, they have received not less than 15%. That is the same percentage increase received by State employees for the period April 1, 1968, to April 1, 1970. As of the latter date, however, a two-year contract was negotiated for State employees that provided for an increase in the first year of \$750 or 7.5%, whichever was greater, with \$250 deferred until October 1, 1970. For the second year, starting April 1, 1971, there was a further increase of 6% with a minimum of \$525. While there is no doubt that increases received by comparable State employees have a measure of relevance in the determination of appropriate wage increases for these City

employees, their precise significance, however, is dependent upon the importance of, and the effect to be given to, other criteria.

It is the Union's position that it is entitled to a settlement 14ar all of its titles that approximates the percentage wage gains won by other City employees in the 1970 negotiations. It claims that within the inspectorial group the key comparison--and the one most appropriate--is between the Rent Inspector and the Housing Inspector, and it contends that on that basis, as well as on the basis of gains obtained by other inspectorial titles, increases ranging from 9% to 10% are justified.

The City strongly stresses the maintenance of traditional relationships among the inspectorial titles and urges that any comparisons with the Rent Inspector title be confined to such other inspectorial titles as the Water Use Inspector, the License Inspector and Inspector of Markets, Weights, etc. (now combined as Consumer Affairs Inspector), and the Inspector of Low Pressure Boilers.

In this regard, the parties differ over whether or not comparisons with other inspectorial titles are to be confined to the salary grade that the rent inspectorial titles had in 1965 under the Career and Salary Plan prior to their inclusion into the collectively negotiated Alternative Career and Salary Plan. It is the Union's position that Rent Inspectors have no similarity in function with Consumer Affairs Inspectors or Water Use Inspectors, but that they do have a very close similarity with the function of the Housing Inspector, and that "if an equation must be struck, it should be between these titles" (Union Brief, p. 15).

It is to be noted that there are some 114 inspectorial titles covering a total of about 3,100 employees. Were the proposition to be accepted that it is necessary to evaluate, in the first instance, similarities of functions, responsibilities, hazards, and, qualifications for these titles in order to determine the appropriate amount of wage increase, it is obvious that such a task goes much beyond the confines of the responsibilities of a fact finder. It is questionable to what extent it is possible to determine in a proceeding of this nature how the qualifications for Rent Inspector of three years of experience in the general area of management of real estate is to be equated with those for Housing Inspector of five years of experience as a journeyman in the construction trades, or how the Housing Inspector's responsibility to prepare cases for Court prosecution and appear in Court as a witness is to be equated with the absence of such a responsibility for the Rent Inspector. If there is a significant question of the appropriate classification of the Rent Inspector title, then clearly the remedy lies with the City's Civil Service Commission. But it is apparent from the data submitted by the Union (Un. Ex. 17) that the parameters for wage increases for Rent Inspectors have not in the past been based on the dollar increases received or negotiated for the Housing Inspector. If there is an equation to be struck between these titles, as urged by the Union, it cannot be an equation which disregards past relationships with other inspectorial titles whose salary grades are more directly in line with the rent inspectorial titles although not necessarily the same as, or confined

to, those in effect in 1965 under the Career and Salary Plan.

An essential question, however, is to determine what round of increases is pertinent for this group of titles. The Union points out that all of the inspectorial titles covered by contracts expiring December 31, 1969, and June 30, 1970, have completed new contracts with the sole exception of the Rent Examining and Inspecting Occupational Group. And it notes that as late as May 1971, at the height of the City's budget crisis, groups that include a number of inspectorial titles were obtaining the 1970 pattern of settlements. That same pattern, it claims, should equally apply to the higher titles whose agreements expired December 31, 1970. It cites a recent settlement from some 14,000 Social Service employees whose contract also expired on December 31, 1970, in which increases were provided for a three-year period of 10% each year for those with a minimum salary of \$7,500, and 9% each year for those earning in excess of \$7,500.

The City contends that the Social Service employees contract must be viewed in the context of the fact that the City obtained and paid the price for long sought relief from contractual restrictions which hampered operations and had an adverse effect on productivity. On the other hand, it cites a recent fact finding report covering some 2,200 Administrative Titled employees in which increases totaling 14.3% over a two-year contract period starting January 1, 1971, were recommended and accepted. It urges that these increases more appropriately represent the indicia of the January 1, 1971, round of bargaining since they achieve a balance

between the anticipated pace in the cost of living and the City's dire financial situation.

But we do not believe that either of the cited settlements are significant in the context of the titles herein involved. It is apparent from the data submitted that increases for the Rent Examining Group, to which the Administrative Titles might be deemed to be related, have been based not on clerical-administrative titles but on the inspectorial titles. Furthermore, it seems inescapable that increases already granted to other inspectorial titles under contracts which became effective July 1, 1970, represent a more compelling comparison than either the Administrative Titled Group or the Social Service employees.

As we view the data with respect to the inspectorial titles whose contract terms became effective July 1, 1970, eight of which, it may be noted, were negotiated in May 1971, the pattern among the higher titles appears to reflect stated dollar increases for comparable salary grades rather than a fixed percentage of average earnings. Recent two-year settlements beginning July 1, 1970, for Senior and Supervising Air Pollution Inspectors and Senior and Supervising Traffic Control Inspectors give every indication that such has been the case. On the other hand, the lower titles exhibit a greater variation and spread which suggest that they are more apt to be the product of a percentage increase. Among those titles, the most recent settlement covers the title of Inspector of Low Pressure Boilers whose increases over a two-and-a-half year term are

estimated to be 9%. Both parties have cited that settlement as a relevant comparison, and we are persuaded that it should be treated as an appropriate benchmark for the lower rated titles with such adjustments as may be required for internal relationships.

Accordingly, we recommend as fair and equitable, the following salary increases and ranges:

	<u>July 1, 1970</u>	<u>Jan. 1, 1971</u>	<u>Jan. 1, 1972</u>
<u>SALARY INCREASES</u>			
Asst. Rent Examiner	\$350	\$675	\$675
Rent Inspector	375	725	725
Rent Examiner	400	800	800
Senior Rent Inspector		900	900
Senior Rent Examiner		950	950
Supv. Rent Inspector		1,000	1,000
Supv. Rent Examiner		1,100	1,100
Prin. Rent Examiner		1,250	1,250
<u>SALARY RANGES</u>			
Asst. Rent Examiner	6,750 - 9,115	7,150 - 9,790	7,550 - 10,465
Rent Inspector	7,100 - 9,490	7,500 - 10,215	8,000 - 10,940
Rent Examiner	7,800 - 10,850	8,200 - 11,650	8,700 - 12,450
Senior Rent Inspector		8,950 - 12,950	9,400 - 13,850
Senior Rent Examiner		9,775 - 14,000	10,250 - 14,950
Supv. Rent Inspector		10,700 - 14,150	11,200 - 15,150
Supv. Rent Examiner		11,000 - 15,600	11,500 - 16,700
Prin. Rent Examiner		13,500 - 17,500	14,000 - 18,750

### RENT EXAMINER TRAINEE

The Union seeks the establishment of the position of Rent Examiner Trainee to replace the existing title of Assistant Rent Examiner. It requests a recommendation that the Office of Labor Relations in turn recommend to the Department of Personnel the creation of the position of Rent Examiner Trainee.

Trainee positions now established by the City provide for automatic advancement to the full title after the completion of a specified training period of one or two years. It is the Union's claim that, based on the experience of persons in the unit, an Assistant Rent Examiner is fully qualified to handle the responsibilities of a Rent Examiner after one year in the job.

The Union also asks that the position of Assistant Rent Examiner (and, when established, that of Rent Examiner Trainee) be opened as a promotional title from Senior Clerk on the ground that such opportunity, when accompanied by an advancement guarantee, would facilitate recruiting from the clerical levels. It requests the Fact Finder to recommend to the Office of Labor Relations that it make such a recommendation to the Civil Service Commission.

It appears that the City is at present studying the Union's request and there are indications that the City is favorably disposed toward the creation of a trainee position although differences may exist over whether automatic advances should be made after one year or two years. While there may well be merit to the Union's proposal, a serious question is raised whether, under Municipal Executive Order No. 52, matters within the purview of the City's Civil

Service Commission such as position classification, reclassification or promotion, as the case may be, are proper subjects for recommendation under the fact finding procedure. The City claims that they are not, and in view of our doubts that they are, we decline to make the recommendations requested.

ADVANCEMENT GUARANTEES

The Union seeks the following change in advancement guarantees:

	<u>PRESENT</u>	P R O P O S E D	
		<u>7/1/70</u>	<u>1/1/71</u>
Assistant Rent Examiner	none	\$700	no change
Rent Examiner	\$525	750	no change
Senior Rent Examiner	600	-	\$1,000
Supervising Rent Examiner	675	-	1,100
Principal Rent Examiner	750	-	1,200
Senior Rent Inspector	525	-	900
Supervising Rent Inspector	650	-	1,150

Advancement guarantees were first established July 1, 1966, for the Senior Rent Examiner, the Supervising Rent Examiner and the Senior Rent Inspector. For the remaining titles, advancement guarantees were subsequently established in relation to those already existing.

It is the Union's position that advancement guarantees should be periodically revised upwards to reflect the increased value of the job. It points out that in July 1966, the guarantee for the Senior Rent Examiner represented an increase of 8% of the minimum rate; for the Supervising Rent Examiner, 7.5%, and for the Senior Rent Inspector, 7.8%. It urges that since five years have elapsed, these guarantees are outdated and should be adjusted at least in

line with the relationship which existed in 1966.

The City contends that since there was no change in the promotion guarantees during the prior round of bargaining for other inspectorial titles, any increase for these titles would upset established relationships. It urges that the demand be rejected and present guarantees continued.

The Union's request would be persuasive were it able to demonstrate that promotion guarantees have consistently been treated as a certain percentage of the minimum of the position to which the promotion is being made, and that when the minimum has been changed, the guarantee has been adjusted accordingly. But not only has not that been the case for the titles in question but the record would appear to indicate that it has not been the case for other inspectorial titles, including such titles as Air Pollution Inspector and Traffic Control Inspector which, as has been noted, were the subject of recent settlements that were considered by the Union to be relevant for purposes of wage increase comparisons. For the reasons cited, we cannot recommend any increase.

The Union has also requested that a suitable advancement guarantee be established for the title of Assistant Rent Examiner in line with its request that the position of Assistant Rent Examiner be made a promotional title from Senior Clerk. Although we have declined to make the latter recommendation because of serious doubts as to our jurisdiction to do so, there would appear to be no problem in recommending an appropriate promotion guarantee in the event the Civil Service Commission were to approve such a promotional

advancement. It would be our recommendation that, under such circumstances, an appropriate promotion guarantee in line with existing guarantees would be in the amount of \$450.

CONTROL CHIEF ASSIGNMENT DIFFERENTIAL

The Union seeks an assignment differential of \$1,300 for Rent Examiners and Senior Rent Examiners acting in the capacity of "Control Chief."

In each of the City's six District Rent Offices, one individual has been designated the "Control Chief." With the exception of the Staten Island Office where the District Director, along with his other responsibilities, functions as a Control Chief, the position is held either by a Senior Rent Examiner or Rent Examiner. The present incumbents receive the following salaries:

Senior Rent Examiners

Brooklyn	\$ 12,900
Bronx	10,444
Upper Manhattan	12,600

Rent Examiners

Lower Manhattan	\$ 10,500
Queens	9,820

Control Chief is an in-house title for the person assigned to administer and supervise clerical and administrative units in a District Rent Office. He is in charge of central control and is responsible for all non-processing operations which include such units as information and consultant, telephone, registration and closed docket, docketing, protesting and reporting, screening and

jacketing, mail, typing, and various miscellaneous operations, including the handling of subpoenas. He may supervise some forty to sixty employees, including a number of Rent Examiners and Senior Rent Examiners who are assigned to the Information and Consultant Unit to answer inquiries, consult with, and provide assistance to, tenants and landlords.

The question of the appropriate slotting of the Control Chief has been at issue since at least 1964. In the intervening years, the incumbents have sought to be classified to the title of Senior Administrative Assistant or they have sought a salary commensurate with that of Supervising Rent Examiner. Much of the controversy has had to do with whether the duties were to be considered as essentially administrative within the Clerical-Administrative Occupational Group, and if so, at what level they should appropriately be placed within that group.

It is the position of the Union that, irrespective of the appropriate classification of the Control Chief in relation to other clerical-administrative functions, a Rent Examiner or Senior Rent Examiner appointed to act in the capacity of Control Chief carries a broader and more demanding spectrum of responsibilities than a Rent Examiner or Senior Rent Examiner., and the additional responsibility should be recognized as warranting additional pay. It seeks such pay in the form of an assignment differential and points to the fact that such differentials have been successfully bargained for in the case of a number of other City employees such as Architects, Engineers, Assistant Assessors, Dental Hygienists, Hospital Security Officers.

The City contends that the responsibilities of a Control Chief are essentially clerical and administrative and are comparable to those of an Administrative Assistant or Administrative Associate. argues that since Senior Rent Examiners performing these functions are now making more money than Administrative Associates, their demand should be rejected.

The key to this problem would seem to rest on the question whether the Control Chiefs can be said to be assuming a broader and more demanding spectrum of responsibilities than their position titles call for. Were the test solely a matter of the number being supervised, then the answer would be apparent. But obviously that cannot be either the exclusive or the dispositive yardstick. No less relevant in evaluating the level of responsibility is the level of duties of those being supervised. They are predominantly clerical and at a level no higher than Senior Clerk. But if they were only clerical, then there would be considerable question whether the Senior Rent Examiner serving as a Control Chief could be said to be assuming additional responsibilities, or at least any greater responsibilities than those required of an Administrative Associate.

The fact remains, however, that the persons being supervised are not exclusively clerks. If, as the evidence indicates, the Control Chief is also required to supervise as many as nine Rent Examiners and one Senior Rent Examiner, then we obviously have a situation where he is being called upon to exercise a responsibility that is in keeping with the technical experience called for by

his classification. In that respect, his responsibilities would appear to be comparable to those he would exercise as a Senior Rent Examiner in charge of a processing unit. Such a unit is said to comprise, on the average, about seven or eight Rent Examiners.

In short, the Control Chief is assuming not only the duties of his Senior Rent Examiner position title but also those of at least an Administrative Assistant, if not an Administrative Associate. But this is not to suggest that his responsibilities are thereby comparable to either the Supervising Rent Examiner or the Senior Administrative Assistant. Although the former may have no more employees to supervise than the Control Chief, it is evident that since they are predominantly Rent Examiners, he is supervising employees of a higher level as well as of greater technical competence. And the same is probably true for the Senior Administrative Assistant who would be expected to have at least one or more administrative or clerical positions under him at levels higher than a Senior Clerk.

Yet there can be little doubt that a Control Chief is acting above and beyond his position title in the respects indicated. That additional work should be factored in some fashion into additional compensation. Taking into consideration the spread in average earnings between the Senior Rent Examiner and the Supervising Rent Examiner, we think an appropriate assignment differential would be a pro-rated annual differential in the amount of \$650. For the Rent Examiner, we recommend a pro-rated annual differential of \$500.

## PROMOTIONS FOR RENT INSPECTORS

The Union seeks increased promotional opportunities for Rent Inspe6tors by the creation of additional Senior Rent Inspector positions and the opening of promotional examinations for inspectorial titles in the Housing and Development Administration to employees in Rent Inspectorial titles.

In support of its request, the Union points to the fact that there is only one Supervising Rent Inspector and only five Senior Rent Inspectors for eighty-one Rent Inspectors. It claims that this situation has resulted not only in overburdening the supervisors in these titles, but in limiting the promotional opportunities for Rent Inspectors. Such limitation is accentuated, it claims, by the fact that experience in the rent inspectorial services is not now qualifying experience for any of the housing and building inspector positions or real estate management positions within HDA. It stresses that with employee apprehension over job security resulting from the City's budget crisis and the state's rent decontrol law, the opening of new channels for promotion and transfer has become essential for maintaining employee morale.

Accordingly, the Union requests that the Fact Finder recommend \that the Office of Labor Relations in turn recommend to the Department of Personnel that a Senior Rent Inspector title be created for every five Rent Inspectors and a Supervising Rent Inspector title be created for each borough office, and that the Office of Labor Relations further recommend to the Civil Service Commission that experience in the rent inspectorial service be established as

qualifying experience for positions in the building and housing inspectorial service and in real estate management.

In the face of the combination of a budgetary crisis, rent decontrol, and the uncertainties attributable to the national freeze, the Union's request for additional promotion opportunities by the creation of additional Senior and Supervising Rent Inspector titles must be viewed as neither propitious nor appropriate. Accordingly, we recommend that this proposal be denied.

The concern of these employees over job security is, however, entirely understandable in the light of present circumstances. But since the request to provide new transfer opportunities within HDA is dependent for its ultimate implementation upon the Civil Service Commission, we doubt that such a recommendation comes within the jurisdiction of the Fact Finder under Municipal Executive Order No. 52. We therefore decline to so recommend.

Respectfully submitted,

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Abram H. Stockman  
Impasse Panel

Dated,       New York, New York  
              October 21, 1971