

The Chief

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ARBITRATOR ORDERS MORE HEAT FOR COS AT COURT

By MARK TOOR

The Correction Officers Benevolent Association argued that for years the Department of Correction has been giving the cold shoulder to officers' complaints about winter temperatures as low as 27 degrees inside the Intake Center in the Bronx Hall of Justice.

Arbitrator Haydeé Rosario gave the city until Oct. 15 to install four additional heating units in the area, something the DOC and the Department of Citywide Administrative Services had already been working on. In her opinion, dated Sept 2, Ms. Rosario retained jurisdiction in case the work was not completed on time.

No Heat, No Work

If the city misses the deadline, said the union's attorney, Mercedes Maldonado of Kohler & Isaacs, Ms. Rosario could agree to the union's request that she put the area in the deep freeze by forbidding the city from assigning COs to work there. "That would essentially shut the building down," she said "...That threat is still hanging over the city's head."

City officials say they expect to meet the deadline.

"This was the most difficult, easiest case I ever had," Ms. Maldonado said in an interview. A department directive issued in 1995 clearly set the temperature range for the work area, she said, but "the Correction Department fought tooth and nail every step of the way."

"This decision reflects our continued success in fighting to ensure that those who patrol the toughest precincts in New York are not treated like animals by the Department of Correction," COBA President Norman Seabrook said in a statement. "Under my direction, COBA Sergeant-At-Arms Benny Boscio spearheaded this grievance relentlessly for over a year until a favorable decision by the court was attained."

A Chronic Problem

Since the building opened in 2008, COs working in the Intake Center and an adjoining area called Register 22 have experienced unusually low temperatures in cold weather. The law firm said the design of the building did not take into account the cold air let in by the sally-port doors, which provide an entrance to the intake area, when inmates arrive by bus to appear in court. The inmates are logged in at the Intake Center, then searched at Register 22 before being taken to cells.

"As soon as COBA was made aware of the issue, we addressed it at labor-management meetings," said a union spokesman, Michael Skelly. "We learned that the city was in litigation with the architects over many design flaws with the building."

After the meetings failed to achieve progress, the union filed a grievance in June 2010. "Sadly, the Office of Labor Relations thought that the affected members could

always transfer out," Mr. Skelly said in an e-mail. "I guess they thought that since Bronx Hall of Justice is a preferred command because it is not on Rikers Island, the officers should not complain. They were wrong! COBA complained and won."

DOC officials asked CO Osvaldo Betancourt to record the temperature at the affected areas. Mr. Betancourt reported that throughout the month of December 2010, the average reading was in the 40s in the sally ports, in the low- to mid-50s in the Intake Center and in the low 60s at Register 22.

On Dec. 27, the sally ports dipped to 22 degrees, the Intake Center to 27 degrees and Register 22 to 57 degrees. On Jan. 31, 2011, the readings were 39 degrees, 45 degrees and 63 degrees respectively. On Feb. 1, 2011, the temperatures were 32 degrees, 39 degrees and 66 degrees respectively.

The union pointed to DOC Directive 3900, which says that in its facilities "a temperature of at least 65 degrees F shall be maintained when the outside temperature falls below 50 degrees F during the usual working hours of occupants." The exceptions are buildings in which educational, nutritional, geriatric, social, mental-health, health-care or similar services are provided. Buildings in which inmates are transferred are not exempted from the rule.

DOC: Use Different Standard
DOC Assistant Commissioner Frank Eilam, an architect, argued that the arbitrator should be governed not by Directive 3900 but by the city Building Code. The Intake Center corridor should be classified as a garage, he said, for which there is no minimum temperature. He said that regardless of Directive 3900, DOC had never meant for every square foot of its facilities to be above 65 degrees, but only those areas where staff are assigned to desk work.

On a more-practical note, he said DOC had tried to install portable electric heaters, which tripped circuit-breakers because the building's electrical panels were all used to full capacity. At a hearing, he said an additional electrical panel had already been installed and he expected additional heaters to be in place by Oct. 15.

The Bronx Hall of Justice is maintained by the Department of Citywide Administrative Services, Sharman Stein, a spokeswoman for DOC, said in a statement. "DCAS increased the electrical capacity in the intake area of the courthouse to accommodate four additional heating units, which are now being installed by a contractor," she said. "The work was commenced well before the arbitrator issued the ruling and will be completed by Oct. 15."

"It's been a long time coming, but it looks like it's finally on track," Ms. Maldonado said.