State of New York
Court of Appeals

Summaries of cases before the Court of Appeals are prepared by the Public Information Office for background purposes only. The summaries are based on briefs filed with the Court. For further information contact Gary Spencer at 518-455-7711 or gspencer@nycourts.gov.

To be argued Wednesday, January 5, 2022 (arguments begin at 2 p.m.)

No. 4 Matter of Callen v New York City Loft Board
Matter of Fiscina v New York City Loft Board

Richard Fiscina and three other residents of unregistered lofts in a Manhattan building applied to the New York City Loft Board for coverage under the Loft Law (Multiple Dwelling Law article 7-C) in 2014, seeking to compel the building's owner, the Casper R. Callen Trust, to convert their units from commercial to residential use. Trustee Robinson Callen opposed the application, arguing the tenants' units did not qualify for Loft Law coverage because they were not occupied during a window period in 2008-09, as required by the statute. In 2015, as the application was being adjudicated at the Office of Administrative Trials and Hearings (OATH), the parties entered into a settlement agreement which provided that the tenants would withdraw their coverage application with prejudice and Callen would recognize the tenants as covered by the Rent Stabilization Law (RSL), register their units with the Division of Housing and Community Renewal as rent-stabilized, and obtain a certificate of occupancy for residential use. An administrative law judge recommended the Loft Board accept the tenants' request to withdraw their coverage application, but made no recommendation on the agreement.

The Loft Board rejected the agreement and the request to withdraw the application "as against public policy," and remanded the matter to OATH. The Board said it would be illegal for the tenants to remain in the building without a certificate of occupancy unless they obtained protection under the Loft Law, and they would not have that protection if they withdrew their application. It said the settlement agreement "perpetuates an illegality and undermines the purpose of" the Loft Law. When it denied the parties' applications for reconsideration, they commenced these proceedings to annul the Board's orders.

Supreme Court annulled the orders as irrational. It said the parties "have settled their differences and the Loft Board has refused to accept the settlement. This leaves two options – one is for the tenants to default at the forced hearing and the other is for the tenants to spend plenty of money and time litigating something they do not wish to litigate. Both options are wasteful and make no sense. While the Loft Board may not agree with the settlement, it is irrational to refuse to allow an applicant to withdraw his application."

The Appellate Division, First Department modified by upholding the Board's decision to reject the settlement, but ruling "it was irrational to refuse to allow the tenants to withdraw their conversion application because the Loft Law was not the sole basis for legalization of the subject units." It said the RSL provides "a separate and independent track for the tenants to obtain rent regulation coverage outside the Loft Law's statutory scheme" because their units are legal under the RSL. While the Board had a rational basis to reject the settlement, it said, "once the tenants decided to withdraw their conversion application..., the Board no longer had authority to supervise and approve the legalization process of the building because the tenants relinquished their rights to proceed to conversion pursuant to the Loft Law."

The Loft Board says the decision conflicts with Second Department precedent and it argues, "Having rationally rejected the underlying agreement, the Board also rationally rejected the tenants' attempt to withdraw their application and directed further investigation into Loft Law coverage. After all, the tenants' attempt to withdraw their coverage application went hand in hand with the illegal agreement, whose terms expressly required them to withdraw the application with prejudice. The First Department had no basis to separate the two. More fundamentally, the Board acted rationally where it knew the direct result of allowing withdrawal would be continued residential occupancy outside the Loft Law, with no residential certificate of occupancy – something that's plainly illegal."

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To be argued Wednesday, January 5, 2022 (arguments begin at 2 p.m.)

No. 6 Donohue v Cuomo

In this federal action, the lead case among 11 separate suits filed by unions against New York State, the Civil Service Employees Association (CSEA) alleges the State violated its collective bargaining agreements (CBAs) and the Contract Clause of the U.S. Constitution in 2011, when it unilaterally increased by two percentage points the share of premiums retired State workers must pay for coverage by the New York State Health Insurance Plan (NYSHIP). Since 1985, in a series of CBAs with CSEA and the implementing statutes, the State agreed to pay 90% of the cost of individual coverage and 75% of the cost of dependant under NYSHIP, and also agreed that retirees could retain their health insurance after retirement if they had 10 years of service. The State contributed to the retirees' premium costs at the same 90% and 75% rates. The CBAs did not specify the duration of the State's obligation to make the contributions. With the State facing a $10 billion budget deficit in 2011, and in an effort to avoid widespread layoffs, the State and CSEA negotiated a reduction of the State's contribution rate for active employees to 88% for individual coverage and 73% for dependent coverage as part of a new five-year CBA. The State unilaterally extended this reduction to retirees the same year by statutory amendment and regulation, a step it said has saved the State about $30 million per year.

The CSEA, its officers, and several retirees then brought this action in U.S. District Court for the Northern District of New York for breach of contract under New York law and for impairment of the obligations of contract in violation of the Contract Clause, contending that the CSEA's CBAs with the State gave retiring employees a vested right to retain NYSHIP coverage with the State contributing 90% of the cost of individual coverage and 75% for dependant coverage. While the CBAs did not expressly provide for a vested right to coverage at fixed contribution rates for life, the CSEA argued that such a right could be inferred from the language of the contracts or, at least, that the language is sufficiently ambiguous to permit consideration of extrinsic evidence to establish the vested right.

U.S. District Court granted summary judgment to the State dismissing the suit, finding that "the unambiguous terms of the CBAs at issue did not create a vested interest in the perpetual continuation of premium contribution rates at a specific level." The court said the CBA "simply provides that employees have the right to retain health insurance in retirement..., but is silent as to contribution rates.... The only reasonable interpretation of the unambiguous language of the CBAs is that the premium contribution rates are subject to the general durational clauses and that this obligation ceased upon the termination of each respective CBA."

The U.S. Court of Appeals for the Second Circuit is asking this Court to resolve the key issues with a pair of certified questions: "Under New York state law" does the 2007-2011 CBA "(1) create a vested right in retired employees to have the State's rates of contribution to health-insurance premiums remain unchanged during their lifetimes, notwithstanding the duration of the CBA, or (2) if they do not, create sufficient ambiguity on that issue to permit the consideration of extrinsic evidence as to whether they create such a vested right?" If the CBA does create such a vested right, "does New York's statutory and regulatory reduction of its contribution rates for retirees' premiums negate such a vested right so as to preclude a remedy under state law for breach of contract?"

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