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Michael A. Cardozo, *Corporation Counsel*

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# COURT UPHOLDS CITY'S WORKFARE PROGRAM AND REJECTS MUNICIPAL UNION'S CHALLENGE THAT THE PROGRAM HAS RESULTED IN THE DISPLACEMENT OF REGULAR CITY WORKERS

**Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov**

New York, December 4, 2003 – In two related cases brought by municipal employee unions, *Roberts v. City of New York* and *Rosenthal v. City of New York,* Justice Michael D. Stallman of the Supreme Court of the State of New York, New York County, has upheld the City's longstanding policy of assigning public assistance recipients to perform parks maintenance related work activities under the City's Work Experience Program (WEP) as a condition of their continued receipt of public assistance benefits.

The petitioner unions had alleged that public assistance recipients who are required to participate in the City's Work Experience Program have been, and currently are, being assigned by the New York City Human Resources Administration to the New York City Department of Parks and Recreation to perform parks maintenance-related tasks, including work that is the same or similar to work performed by regular Parks Department employees, in violation of the "anti-displacement" provisions of the New York Welfare Reform Act of 1997, New York Social Services Law § 336-c(2)(e).

The Court rejected all of the unions' claims of alleged displacement. Although finding that the tasks performed by WEP participants at the Parks Department had some similarities to the work performed by regular Parks employees in several civil service titles, the Court noted that "WEP is intended to provide persons on public assistance with career training and job experience when they might otherwise have had difficulty finding employment or training." The Court concluded "[t]hat purpose would be defeated if WEP participants performed tasks that do not parallel real-world jobs."

The Court also found that the unions failed to establish any correlation between the number of Parks Department employees and the number of WEP participants. Indeed, the Court observed that as the number of WEP participants assigned to the Parks Department has dropped, the number of regular Parks employees has remained about the same for some titles and for other titles has also dropped. The Court also noted that adopting the unions' interpretation of the Social Services Law would mean that no WEP assignment could be made, even though the provisions of the Social Services Law permit recipients of public assistance to be assigned to WEP.

New York City Corporation Counsel Michael A. Cardozo said, "These decisions reaffirm the legality and useful public purpose of the City's Work Experience Program in helping public assistance recipients transition from welfare to paid employment."

Senior Counsel Bruce Rosenbaum of the Law Department's Labor & Employment Law Division represented the City of New York, and the other named respondents in these cases. The decision was dated Nov. 26, 2003, and just released this week.

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