

Hellman Elec. LLC v City of New York
2026 NY Slip Op 30880(U)
January 14, 2026
Supreme Court, New York County
Docket Number: Index No. 165141/2025
Judge: Gerald Lebovits
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. GERALD LEBOVITS PART 07

Justice

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INDEX NO. 165141/2025

HELLMAN ELECTRIC LLC, WELSBACH ELECTRIC CORP., and E-J ELECTRIC INSTALLATION CO.,

MOTION SEQ. NO. 001 002

Petitioners,

- v -

DECISION + ORDER ON MOTION

THE CITY OF NEW YORK, THE CITY OF NEW YORK DEPARTMENT OF TRANSPORTATION, and YDANIS RODRIGUEZ,

Respondents.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 25, 26, 27, 28, 29, 30, 37, 39, 40, 41, 42, 43, 44, 50, 51, 52

were read on this motion for ARTICLE 78 (BODY OR OFFICER)

The following e-filed documents, listed by NYSCEF document number (Motion 002) 31, 32, 33, 34, 35, 36, 38, 45, 46, 47, 48, 49, 53, 54, 55

were read on this motion to STAY

Murtagh, Cohen, Byrne, Murdy & Mundo, Rockville Centre, NY (Edward T. Byrne and Andrew J. Mundo of counsel), for petitioners.

Muriel Goode-Trufant, Corporation Counsel of the City of New York, New York, NY (Constantine Kokkoris and Meghan O'Malley of counsel), for respondents.

Gerald Lebovits, J.:

This CPLR article 78 proceeding arises from New York City's effort to make crosswalks accessible for the visually impaired. Petitioners are Hellman Electric LLC, Welsbach Electric Corp., and E-J Electric Installation Co. Respondents are the City of New York, the City's Department of Transportation (DOT), and DOT commissioner Ydanis Rodriguez. Respondents hired petitioners to install accessible pedestrian signals (APS) across New York City's five boroughs. (See NYSCEF No. 1 at ¶¶ 1-2 [petition].)

The parties entered into the APS agreement in 2022. The agreement runs until January 22, 2026, and grants respondents an option to renew the agreement for an additional year upon its expiration. (See NYSCEF No. 1 at ¶ 4; NYSCEF No. 6 at ¶ 41.2 [agreement].) Respondents have notified petitioners of their intent to exercise the renewal option.

In this proceeding, petitioners allege that the work required to carry out the project has been much more extensive and logistically challenging than what they had understood when they entered into the contract; and that as a result, petitioners' payments under the contract are unsustainably low. Petitioners contend that City procurement rules require respondents, before exercising the renewal option, to determine that the contract prices remain fair and reasonable—and that respondents' decision to renew the contract without making that determination is arbitrary and capricious. Petitioners seek an order annulling respondents' decision to exercise the renewal option, enjoining them from taking steps to renew the contract, and enjoining them to make the fair-and-reasonable determination that petitioners allege to be required.

On motion sequence 001, petitioners move for an order annulling respondents' exercise of the renewal option and staying enforcement of the contract renewal. (NYSCEF No. 27 at 2.) Respondents cross-move to dismiss the petition under CPLR 3211. On motion sequence 002, petitioners move to stay exercise of the renewal option pending resolution of motion sequence 001. Respondents cross-move for the same relief they request on their first cross-motion.

Petitioners' motion to annul and to stay (mot seq 001) is denied. Respondents' cross-motion to dismiss (mot seq 001) is granted. The motion and cross-motion on motion sequence 002 are denied as academic. The petition is denied and the proceeding is dismissed.

DISCUSSION

Respondents argue that they were not required to make a fair-and-reasonable-price determination before renewing the contract, as petitioners contend, and that the petition should therefore be dismissed for failure to state a cause of action.¹ This court agrees.

Petitioners rely on a section of the Rules of the City's Procurement Policy Board (PPB), governing City contracting and procurement. (*See* PPB Rules [9 RCNY] § 1-02 [a].) In particular, PPB Rule § 4-04 [c] [17] provides that a City contracting officer, when recommending renewal of a contract, shall make "all applicable determinations called for by these Rules, including a determination, if applicable, that the prices set forth in the contract are

¹ Respondents also argue, in the alternative, that the proceeding should be dismissed for lack of jurisdiction due to petitioners' asserted failure to exhaust administrative remedies. Respondents claim that petitioners' "dispute with DOT actually concerns the scope of the work of the APS Contracts and the amount to be paid for extra or disputed work that Petitioners allege they were required to perform by DOT," and that petitioners were therefore required to exhaust alternative-dispute-resolution procedures set out in article 60 of the parties' agreement. (NYSCEF No. 43 at 15.) But the petition does not assert causes of action or seek relief relating directly to the scope of work of the contract, or the amounts that petitioners should be paid for extra or disputed work. (*See* NYSCEF No. 1 at 24-26.) To the contrary, as petitioners maintain, this proceeding "strictly relates to the exercise of the Renewal Option, with all other issues, such as Respondents' breach of the APS Contract, reserved by [petitioners] for another time and another forum." (NYSCEF No. 53 at 12.) And respondents do not contend that petitioners were required to exhaust their challenge to respondents' exercise of the renewal option. The court declines to dismiss the proceeding on exhaustion grounds.

still fair and reasonable.” Petitioners argue that this provision required respondents, before deciding to exercise the renewal option here, to make a fair-and-reasonable-price determination. (See NYSCEF No. 23 at 7-8.) Respondents, in moving to dismiss, contend that paragraph (c) (17)’s fair-and-reasonable determination requirement does not apply to this kind of contract. (See NYSCEF No. 43 at 12-13.)

Neither side has identified caselaw (or administrative determinations) interpreting the language of paragraph (c) (17). Nor has this court’s own research found prior precedent on point. Interpreting the language of the rule for itself, this court concludes that respondents’ reading is more persuasive.

1. As noted above, paragraph (c) (17) provides that the appropriate City procurement official must make “all *applicable* determinations,” including a “determination, *if applicable*, that the prices set forth in the contract are *still* fair and reasonable.” (9 RCNY 4-04 [c] [17] [emphases added].) That is, a fair-and-reasonable-price determination is not always required before the City renews a contract—only when something outside of paragraph (c) (17) triggers applicability of that requirement.

Petitioners offer a different interpretation. They assert that the fair-and-reasonable-price requirement should be understood as *always* applicable except when the agency has already “recognize[d] that the original contract prices have become out of date and inadequate, and has made an equitable adjustment to make them current during the renewal period.” (NYSCEF No. 23 at 8-9.) But on this reading there would be no reason to include the “if applicable” limitation on the fair-and-reasonable requirement in the first place: The rule could simply impose the requirement across the board, and then make exceptions for particular specified circumstances. Petitioners do not explain why paragraph (c) (17) instead takes the form that it does.

2. The next question, what will trigger (c) (17)’s fair-and-reasonable requirement, is answered by the provision’s “*still* fair and reasonable” language. That language implies that paragraph (c) (17) applies when the City had to have made a “fair and reasonable” determination before initially awarding the contract at issue. That is, the PPB Rules require the City to determine that a contract price is fair and reasonable before entering into several categories of contracts. (See 9 RCNY 2-09 [sole-source contract awards]; 3-02 [q], [t] [2] [iv] [competitive sealed bids]; 3-03 [g] [competitive sealed proposals]; 3-08 [c] [iii] [small purchases]; 3-09 [a] [purchases made through a federal or state agency]; 3-11 [g] [demonstration projects]; 3-13 [c] [purchases directly from another governmental entity].²) If a given PPB Rule required the City to decide, before entering into a contract, that the contract’s prices were “fair and reasonable,” then Rule § 4-04 (c) (17) also requires the City to decide, before renewing the contract, that its prices are “still fair and reasonable.”

Petitioners, on the other hand, contend that “fair and reasonable” should be read as “establish[ing] an objective standard, so that a price can only be ‘still fair and reasonable’ if it is fair to both parties to a contract” with the City. (NYSCEF No. 53 at 9). This interpretation of

² See also 9 RCNY 2-06 (directing City procurement officials to use particular analytical methods when making fair-and-reasonable-price determinations).

paragraph (c) (17), though, would again call for the City to have to make a fair-and-reasonable determination whenever a contract is up for renewal, ignoring the “if applicable” limit on that requirement. For the reasons given above, this interpretation is unpersuasive. That is particularly true given that the PPB Rules do not treat the need for prices to be “fair and reasonable” as a general contracting principle, as petitioners would have it. Rather, the Rules use “fair and reasonable” as a term of art to describe a relevant evaluative criterion in particular contracting contexts (cited above).

In short, PPB Rule § 4-04 (c) (17) requires the City to make a determination that contract prices are “still fair and reasonable” before renewing a contract only if the City was required to make a fair-and-reasonable-price determination before initially entering into that contract. Petitioners do not allege or argue that the City had to make a fair-and-reasonable-price determination before awarding them the APS contract at issue here. Respondents therefore need not have made a still-fair-and-reasonable determination before exercising its renewal option of that contract. For that reason, petitioners’ challenge to respondents’ renewal of the contract fails to state a cause of action. Respondents’ request to dismiss is granted. Petitioners’ request to stay the contract renewal is denied. The proceeding is dismissed.

Accordingly, it is

ORDERED that petitioners’ motion for judgment in their favor on the petition (mot seq 001) is denied; and it is further

ORDERED that the branch of respondents’ cross-motion seeking dismissal under the petition under CPLR 3211 (a) (2) (mot seq 001) is denied; and it is further

ORDERED that the branch of respondents’ cross-motion seeking dismissal of the petition under CPLR 3211 (a) (7) (mot seq 001) is granted; and it is further

ORDERED that petitioners’ motion and respondents’ cross-motion on motion sequence 002 are denied as academic; and it is further

ORDERED that the petition is denied and the proceeding is dismissed, with costs and disbursements as taxed by the Clerk upon the submission of an appropriate bill of costs; and it is further

ORDERED that respondents serve a copy of this order with notice of its entry on petitioners; and on the office of the County Clerk (using the NYSCEF document type "Notice to the County Clerk - CPLR § 8019 (c)"), which shall enter judgment accordingly.


HON. GERALD LEBOVITZ
J.S.C.

1/14/2026
DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE