

IN THE MATTER OF THE ARBITRATION	)	
	)	
between	)	
	)	INTEREST ARBITRATION
CITY OF WAUKEGAN, ILLINOIS	)	
	)	
and	)	2007 AGREEMENT
	)	
MAP, WAUKEGAN POLICE SERGEANT'S	)	
CHAPTER NO. 285	)	

REPORT AND DECISION OF ARBITRATOR

In these proceedings, a deadlocked Collective Negotiating Matter, relating to two issues, was submitted for an Award to a Panel consisting of James P. Martin, selected by the parties to serve as Chairman herein; Joseph R. Mazzone, Esquire, member representing the Union, and James Baird, Esquire, member representing the City. A hearing was held in Waukegan, Illinois on August 27, 2007, at which the parties were fully heard. The following appearances were entered:

UNION: Joseph R. Mazzone, Esquire,  
Schenk, Duffy, Carey, Ford, Mazzone, Phelan & Clemens, LTD.

CITY: James Baird, Esquire  
Seyfarth Shaw LLP

Briefs were filed and exchanged through the Chairman on November 1, 2007. An extension of time for the issuance of an Award was granted by the parties, until February 22, 2008.

BACKGROUND

Since this arbitration is being conducted under the provisions of the Illinois Labor Relations Act and more particularly Section 14(h), the following factors must be considered, although the weight given to each factor is determined by the Panel:

1. The lawful authority of the employer.

2. Stipulations of the parties.
3. The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
4. Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally:
  - (A) In the public employment in comparable communities.
  - (B) In private employment in comparable communities.
5. The average consumer prices for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
7. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
8. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service of private employment.

While all of the above factors must be considered, the union has argued that elements 1, 5, and 7 should be given no weight whatsoever because they are not applicable, and neither side argued their relevance. I agree with this, and those elements have been given no weight in reaching the Award. The union further argues that element 3, as it concerns the financial ability of the City to pay the wages of the union's proposal, should be disregarded, since no argument was made by the City that it was unable to pay. Element 3 contains two factors, the interest and welfare of the public, and the financial ability of the city to pay. The city has argued that paying the union's demands will adversely affect the interest and welfare of the public, inasmuch as it would divert

funds more properly used for other purposes to the excessive pay demands. This element is still in the mix.

The parties have been able to agree on only three external comparables: Berwyn, Cicero and Oak Lawn. The City has proposed three others, and the union eleven: for the City, Champaign, Decatur and Moline; for the Union, Arlington Heights, Bolingbrook, Des Plaines, Elgin, Evanston, Joliet, Mount Prospect, Oak Park, Palatine, Schaumburg and Skokie.

In selecting its cities as comparables, the City began with 31 Illinois cities that were within plus or minus 50% of the City's 2000 population. It then excluded the three cities which had riverboat casinos: Aurora, Elgin and Joliet. It created a matrix using the following nine factors: location in the Chicago metropolitan area; population; number of sworn personnel; median home value; median household income; per capita income; EAV per capita; sales-tax per capita; and general fund income per capita. Each city was scored on the number of factors in which it varied from the City by less than 50 percent plus or minus, and those cities with seven or more common factors constituted the City's comparables. Three of the six were identical to three of the union-selected cities, and the other three, Champaign, Decatur and Moline, were hundreds of miles from the City. The union strenuously objected to considering as comparables, cities totally remote from the City. It further objected to the elimination of cities with riverboat casinos. No objection was raised to the other factors of comparability.

For its part, the union proposed as comparables 14 cities, including the three jointly- selected cities. Using as criteria geographic proximity, population, Illinois sales tax revenue, median

housing/condo value, median income, land area, crime Index, local police payroll, police budget and number of Officers, the union proposed, in addition to the joint cities, Arlington Heights, Bolingbrook, Des Plaines, Elgin, Evanston, Joliet, Mount Prospect, Oak Park, Palatine, Schaumburg and Skokie. The City's objection to the union's proposed comparables is a disparity of wealth between those cities and itself. The documents submitted at hearing and in briefs make it abundantly clear that the City's objection is factual, but also make it clear that it would be very difficult to find a city comparable to the City in terms of size and poverty. The union's proposed comparables do not establish a basis for making a judgment as to the contested wage proposals, nor the health insurance proposals.

In the same manner, the union's objections to the City's proposed comparables, obviously excluding the jointly-agreed cities, do not serve to provide a valid basis for judging between the wage proposals nor the health insurance proposals. For the purposes of this proceeding, the external comparables are found to be the jointly- selected cities, Berwyn, Cicero and Oak Lawn. While an exceedingly small pool, the findings to be made require very little weight to be given to external comparables.

#### THE WAGE ISSUE

This is a first agreement. The Union was certified as the bargaining unit's exclusive agent by the Illinois Labor Relations Board on March 29, 2006. The original proposal was for the union to represent All Sergeants and Lieutenants of the Waukegan Police Department, but ultimately only the Police Sergeants were found to be in the unit, and were therefore found to no longer be supervisors. The parties negotiated the agreement, and deadlocked only on the Market Based Equity Adjustment segment of Wages, and the Health Insurance Premium Allocation.

The City offered a Market Based Equity Adjustment of \$750, while the union proposal was \$1500. The same 4% plus \$750 equity adjustment was contained in the recently negotiated contract for the police officers. For a number of years, the city has maintained wage symmetry between its then four unions and its non--represented employees. Contrary to the union's claim, if the percentage pay increase and equal equity adjustments are negotiated for the police officers and the Sergeants, the Sergeants will continue to expand the differential between them and the police officers. As opposed to external comparables, internal comparability is critical, and is controlling. There was no imperative shown for the increase to the union's proposed level of equity adjustment payment, and substantive reasons for not increasing it. Accepting the City's proposed equity adjustment payment, especially in light of an overall wage package exceeding any that has gone before with other unions, allows the City to maintain its wage symmetry. Since this was done with a substantially increased wage offer, a showing of lack of equity would be necessary to accept the union's proposal and thereby disrupt the City's bargaining posture vis-à-vis its other unions and non-Bargaining employees.

Another factor entering into the decision is the fact that the union is negotiating its first contract.

For it to jump out of line and exceed the wages of its internal comparables should be done in negotiations, not in arbitration. For the above reasons, the City's Final Offer is found to be the more reasonable, and is adopted.

#### THE HEALTH INSURANCE ALLOCATION ISSUE

Prior to March 29, 2006, the Police Sergeants were supervisors in the City Police Department.

Following a certification by the Illinois Labor Relations Board on that date, the Sergeants were found to be no longer supervisors, and appropriate members of a bargaining unit, represented by the union.

For a substantial period of time, the City has negotiated a 20 percent payment by unionized employees towards the cost of health insurance, while managerial employees pay nothing. During this time, Sergeants were managerial employees, and of course paid nothing. After March, 2006, the Sergeants were not managerial employees. The parties negotiated over the status of the Sergeants, and deadlocked. The City's Final Proposal was:

Section 22.5, Premium Allocation. Employees to become Sergeants prior to September 1, 2007 will pay the same percentage of required health insurance premium costs as are paid by the sworn managerial employees of the Police Department, with the City paying the remaining percentage. Employees to become Sergeants on or after September 1, 2007 will pay the greater of: (1) 10% of required health insurance premium costs; or (2) the percentage of health insurance premium costs paid by the sworn managerial departments of the Police Department, with the City paying the remaining premium percentage.

The union's Final Proposal was:

The City shall pay one hundred percent (100%) of required health insurance

premiums, for single and family coverage, until such time the City Council specifies an allocation arrangement with employee contribution, which may become effective the pay period following Council action and employee notification.

According to the City, its proposal changes the status quo for current Sergeants for the better, a substantial financial benefit for them, and changes the status quo for newly hired Sergeants by requiring them to pay only 10 percent, instead of the 20 percent for which they were liable as a unionized employee, similar to all other unionized employees. The City further alleges that the new Section 22.5 proposed by the City or by the union can result in exactly the same insurance payment allocation, but that the City proposal makes the change through collective bargaining, while the union proposal makes the change through City Council action.

According to the union, the City proposal changes the status quo for Sergeants, who have for at least a quarter-century, enjoyed fully paid health insurance, without any contribution. To require a 10 percent payment by Sergeants who assume that rank after September 1, 2007 is to radically change the status quo, and the City is therefore obligated to present evidence to show that the change is proper and required.

Prior to March, 2006, all represented employees paid 20 percent towards their health insurance premiums. Managerial employees paid nothing. The Sergeants were not represented employees, and therefore were not required to pay the 20 percent. They were considered managerial

employees, and paid nothing on that basis. Subsequent to March, 2006, the Sergeants were represented employees; represented employees paid 20 percent, and it would be maintaining the status quo to require the Sergeants to pay 20 percent. Since they were no longer managerial employees, it would be maintaining the status quo for them to no longer receive health insurance without paying 20 percent. For 25 years or more, represented employees paid and management employees didn't: that was the status quo. When the Sergeants changed their category, they simply fell within the established policy of who paid and who didn't. The City Final Offer is far from a violation of its obligation to maintain the status quo, or to provide evidence as to why it should change. It's offer is of substantial benefit to Sergeants, and in no way a detriment. It's Final Offer is adopted.



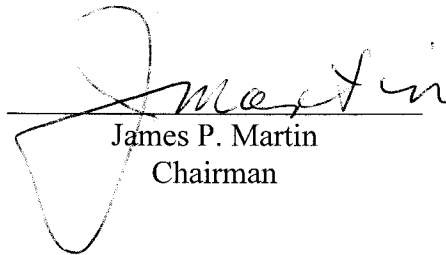
A W A R D

On the issue of Insurance Premium Payments, the Panel selects the City's Final Offer.

On the issue of Wages, specifically and solely the Market Based Equity Adjustment, the Panel selects the City's Final Offer.

These Offers are to be included with the Temporary Agreement agreed to by the Parties, and together are to constitute the 2007 Collective Bargaining Agreement.

Chesterton, Indiana  
February 22, 2008



James P. Martin  
Chairman

I concur:

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I dissent:

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