

LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

DEPARTMENT OF LABOR
MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Fact Finding between

City of Muskegon Heights, Michigan

MERC Case No. G88 D-300

-and-

Fact Finder: Sol M. Elkin

Teamsters Local No. 214

Sol Elkin /

FACT FINDER'S REPORT AND RECOMMENDATION

Introduction

The City of Muskegon Heights is located in western Michigan in the heart of the Muskegon Heights Standard Metropolitan Statistical Area and is surrounded by the communities of Muskegon, Norton Shores and Muskegon Township. Its population is approximately 15,000. The income and employment levels of Muskegon Heights residents are lower than the surrounding communities in Muskegon County. The City's per capita income is \$4,583 and the medium income is \$10,523; 28% and 35% below those in Muskegon County, respectively. 25.9% of the population have income levels below the poverty level, compared to 12.3% for the County of Muskegon and 10.4% for the State.

The bargaining unit represented by the Union is composed of approximately 20 employees in the City's Department of Public Works. Negotiations for a collective bargaining agreement to replace one that expired on June 30, 1988 began in April, 1988. Two tentative agreements were reached in the course of lengthy negotiations but both were rejected by a vote of the bargaining unit members. Following

Muskegon Heights, City of

the second rejection, the Union applied to the Michigan Employment Relations Commission for fact finding, and the undersigned was appointed by MERC as fact finder.

Preliminary to holding a fact finding hearing, the parties met with the fact finder for extensive discussions which resulted in tentative resolution of all outstanding issues with the exception of the dispute regarding residency. In lieu of a formal fact finding hearing, the parties agreed to file briefs and exhibits on the single remaining issue.

The Employer was represented by Theodore N. Williams, Jr., Esq.; the Union by Fred Bennet, Business Representative.

The Issue in Dispute--Residency

From the expired contract

ARTICLE XXXVI--Residency

The Union agrees that the City may, as a precondition of employment, require that all new employees shall become residents of the City of Muskegon Heights during their probationary period.

The parties seek to revise and expand the above provision as follows:

Employer Proposal:

Section 1. New Hires. All new hires must become residents of the City.

Section 2. Current Employees: (A) Current employees living in the City shall remain residents during their employment with the City. (B) Current employees living outside of the City may maintain their current residency; however, if the current employee relocates, he or she must relocate within the City limits.

Section 3. The Union agrees that the City may, as a pre-condition of employment, require that all new employees shall become residents of the City of Muskegon Heights during their probationary period.

Union Proposal:

Section 1. All DPW employees shall be exempt from the provisions of City Ordinance #359.(1)

Section 2. Present DPW employees who are not residents of the City may remain outside the City until such time as they elect to change their place of residence. If they elect to change their place of residence, they must relocate within five (5) miles of the then established city limits of Muskegon Heights or they will be terminated.

Section 3. All future DPW employees must become and remain residents of the City of Muskegon Heights.

Employer's Rationale

The principal purpose of the City in urging a residency requirement is that it is a means of improving the economic base of the City. As the average income of bargaining unit members is nearly twice the average of City residents their residence in the City will improve the City's tax base. Population trends suggest that continued growth is critical to the survival of Muskegon Heights and the proposed residency requirement will contribute to that end. It will also reduce housing vacancies, encourage new home construction, and improve the overall image of the community. The City notes, furthermore, that in 1976 it passed an ordinance making residency a requirement for all employees. Finally, residency provisions similar to those proposed by the City are a part of every collective bargaining agreement that the City has negotiated with other bargaining units,

(1) Ordinance No. 359, passed in 1976, states in pertinent part:

(4) All employees of the City, other than Department Heads, not now residents of the City can remain outside of the City until such time as they elect to change their residency, then they must locate within the City or be terminated.

with the exception of the police patrolmens' unit, which requires only that patrolmen live within a five mile radius of the City.

Union's Rationale

The Union offered extensive data to show that other unions that bargain with Muskegon Heights as well as bargaining units in an overwhelming number of comparable communities do not have the residency restrictions in their contracts that the City is now seeking. Muskegon Heights police officers

who are not residents of the City may remain outside the City until such time as they elect to change their place of residence. If they elect to change their place of residence, they must relocate within five (5) miles of the then established City limits . . .

While Muskegon Heights fire fighters currently residents of the City must remain in the City,

All employees . . . who currently reside outside the City but within the five (5) mile radius of the closest City limit may move provided they continue to live within the five (5) mile limit.

Muskegon Heights teachers have no residency restrictions--only 40 of 170 live within the City.

Of the seven cities within Muskegon County, only the City of Muskegon has any kind of residency policy for its DPW employees.

Of the cities in western Michigan with populations between 9,000 and 16,999, none have a residency requirement for its DPW employees. . Those communities are Benton Harbor, Big Rapids, Cadillac, Coldwater, East Grand Rapids, Grand Haven, Grandville, Niles, Owosso, St. Joseph, Sturgis, Traverse City, and Walker.

In addition to these comparisons, the Union makes the further point that for various reasons living in Muskegon Heights is undesirable. It cites crime statistics to show that Muskegon Heights is less safe than any of the other cities in the county. Also, from information gained from a random sampling of real estate firms in Muskegon County, it notes that homes in Muskegon Heights have the lowest average selling price in the County, and therefore to require its members to move there would be to force them into less desirable homes and neighborhoods.

Finally, the Union argues that a residency requirement infringes upon an employee's family's constitutional right to live together as a family at a place of their choice.

Discussion and Recommendation

There can be no doubt that the City has a need to improve its economic base and it is obviously advantageous to the City's economic health to have as many as possible of its employees reside within the City limits. From the City's viewpoint, it reaps no economic benefit from employees living within 5 miles but outside the city limits. A requirement to live within the City limits, however, must be balanced with the equally legitimate wish of employees to be free to choose the community in which to live and the schools their children will attend.

Comparability has long been recognized as an important criteria for neutrals in resolving such disputes. Particularly important are comparability data for other units bargaining with the same employer. While the City has succeeded in bargaining the requirement of City residence

into some of its contracts, the current Muskegon Heights police officers' and fire fighters' contracts both permit those residing within 5 miles of the City who choose to move to remain within five miles (Union Exh. 11 and 12). The comparison with the police and fire fighters carries even greater weight because with the uniformed services, in addition to the economic gains from a requirement of City residency, there is the added advantage of having police and fire fighters readily available in emergencies--not a consideration for other City employees. Moreover, comparability data from similar nearby communities indicate that residency requirements such as proposed here by the City are more the exception than the rule.

Notwithstanding the economic advantages to the City of its proposal, in the light of the comparability data it would be inappropriate for a neutral to recommend a residency requirement for DPW employees more stringent than that for the Muskegon Heights police and fire fighters and for municipal employees in most surrounding communities.

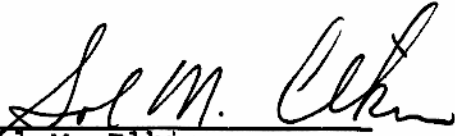
Recommendation

The Fact Finder recommends that the residency issue be resolved by adoption of the Union's proposal:

Section 1. All DPW employees shall be exempt from the provisions of City Ordinance #359.

Section 2. Present DPW employees who are not residents of the City may remain outside the City until such time as they elect to change their place of residence. If they elect to change their place of residence, they must relocate within five (5) miles of the then established city limits of Muskegon Heights or they will be terminated.

Section 3. All future DPW employees must become and remain residents of the City of Muskegon Heights.


Sol M. Elkin,
Fact Finder

Ann Arbor, Michigan
November 24, 1989