

1994

STATE OF MICHIGAN  
ARBITRATION UNDER ACT 312  
PUBLIC ACTS OF 1969, AS AMENDED

PETER D. JASON, CHAIRMAN

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MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
DETROIT OFFICE

IN THE MATTER OF THE ARBITRATION BETWEEN:

CLAY TOWNSHIP

-and-

Case No. D94 J-1878

MICHIGAN ASSOCIATION OF  
POLICE (MAP)

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COMPULSORY ARBITRATION

Pursuant to Act 312, Michigan Public Act of 1969,  
as amended

OPINION AND AWARD

Arbitration Panel

Peter D. Jason  
Arbitrator

Jon K. Manos  
Township Delegate

Ronald Palmquist  
Union Delegate

## INTRODUCTION

These proceedings were commenced pursuant to Act 312 of the Public Acts of 1969 as amended. The arbitration panel is comprised of the Chairman, Peter D. Jason, Township Delegate, Jon E. Manos, and Union Delegate, Ronald Palmquist.

A pre-hearing conference was held on August 31, 1999 and a hearing was held on December 21, 1999. The Township was represented by Mr. John McNamee of the firm of McIntosh, McColl, Carson, McNamee, Strickler & Rickel of Fort Gratiot, Michigan. The Command Officers were represented by Fred Timpner, the Executive Director of the Michigan Association of Police. The record consisted of ninety four pages of recorded testimony and eighteen exhibits. The parties submitted their last best offers at the hearing and did not submit written briefs. The panel met in executive session on Friday, March 3, 2000. During negotiations, the parties have resolved all issues except one and have agreed to incorporate those resolutions into this award. Those resolutions are attached to the petition that initiated this matter. The parties agreed that the remaining issue is economic and so the panel is governed by Section 8 of Act 312 which requires that economic issues be resolved by the panel selecting the last best offer submitted by one of the parties. The factors to be considered are set forth in Section 9 of the Act as follows:

### 423.239. Basis for findings, opinions, and orders

Sec. 9 Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those

costs.

(d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:

(i) In public employment in comparable communities.

(ii) In private employment in comparable communities.

(e) The average consumer prices for goods and services, commonly known as the cost of living.

(f) 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.

(g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(h) 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 or in private employment.

## **BACKGROUND**

The employer, Clay Township, is located in southeast Michigan near Anchor Bay. The Township has a police department that employs three Command Officers, two sergeants and a corporal. These Command Officers are represented by the Michigan Association of Police. The parties Collective Bargaining Agreement expired in 1994.

## **ISSUE**

The issue concerns Conversion of vacation, holiday and sick days and whether the Command Officers may carry over time from one year to the next.

The parties agreed that the computation of vacation, holiday and sick days shall be maintained on a per hour basis, rather than by days. The conversion of twelve hour benefit days

to eight hour benefit days will start July 1, 1998. All accrued benefit days earned at 12 hours will be credited at 13 hours.

**TOWNSHIP'S LAST BEST OFFER:**

The Township proposed that as of July 1, 1998 all Sick and Vacation time be paid at the current rate with no carry over from one year to the next.

**UNION'S LAST BEST OFFER:**

The union proposed that the Command Officers be allowed to accumulate and carry over a total of up to eight hundred hours of sick and vacation time from one year to the next.

**DISCUSSION**

It has been a practice in the Township for many years to allow employees to carry over sick and vacation time from one year to the next. In recent years this practice has been criticized by the Township auditors because it created an unfunded accrued liability. The auditors informed the Township that private industry had been ordered to "book" this liability and advised that it is only a matter of time until the Township will be required to budget funds to pay this liability. Then, if employees carry over the time to the next year, the Township would be required to carry over the funds. Given this prospect, the auditors recommended that the Township "clean out" each fiscal year by paying off the unused sick and vacation time instead of allowing it to accrue. The Township accepted the recommendation and has made proposals to both union and non-union employees to eliminate this practice. Thus far, the DPW union employees and the Professional Staff union have agreed to eliminate this practice. In addition, it has also been eliminated in the personal service contracts the Township has with the Police

Chief, Fire Chief, the DPW Supervisor and the Assessor. Three additional employee units remain, including this one. They are the Police Patrol Unit, Police Command Officers and the Dispatchers, and the elimination of this practice is an issue with all three units.

In this case, the union has resisted the elimination of this practice because its members have traditionally used their accumulated time to supplement their disability insurance or to provide funds when they become temporarily incapacitated by non-duty injuries. Also, the union argued that Police Supervisors should not receive lesser benefits than the Patrol Officers they supervise or the Dispatchers they work closely with.

After careful consideration of the evidence, the Chairman found little financial significance in this dispute. Although the parties have agreed that this is an economic dispute, there is very little financial impact because the Township proposes that it pay for all unused time. So, even if the Chairman were to agree with the union's last best offer and employees were allowed to carry this time over to subsequent years, costs would rise only slightly. It may be anticipated that costs would increase because employees would receive pay increases in those years. However, this increase would undoubtedly be offset somewhat by inflation and the union's last best offer includes a limit of eight hundred hours of time. Therefore, the increase costs for the three employees in the unit would be minimal. Thus, it appears that this issue boils down to the simple point that the Command Officers do not think it is fair that they receive a lesser benefit than the Patrol Officers and the Dispatchers. The Chairman agrees but has selected the Township's last best offer on this issue. The evidence convinced me that the Patrol Officers and the Dispatchers will probably be paid for their time, and also not allowed to accumulate. In addition, when the department converted from an eight hour day to a twelve hour day, the

Command Officers were allowed to accumulate vacation and sick time at a higher rate than Patrol Officers for a considerable period of time. Therefore, it now seems fair that they accept this slight decrease before it decreases for the Patrol Officers and the Dispatchers.

In reaching this conclusion, the Chairman has considered the factors in Section 9 of the Act, but several were irrelevant in this dispute. The parties chose to introduce evidence about other employees in the Township rather than make comparisons to employees in private industry or public employees in other communities. Also, since the difference in costs between the proposals was negligible, the financial implications for both parties was largely ignored.

#### SUMMARY


The Chairman's decision on the issue is as follows:

The Chairman has selected the Township's Last Best Offer on this issue.

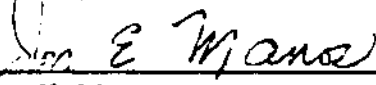
TOWNSHIP      X AGREE      \_\_\_\_\_ DISAGREE

UNION      \_\_\_\_\_ AGREE      X DISAGREE

DATED: 3/14/00

  
Peter D. Jason  
Arbitrator/Chairman

DATED: 3/15/00

  
Jon K. Manos  
Township Delegate

DATED: 3/27/00

  
Ronald Palmquist  
Union Delegate