

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312 ARBITRATION

EATON COUNTY BOARD OF
COMMISSIONERS AND EATON
COUNTY SHERIFF

November 17, 2003

-and-

Case No. L02 F-4003

CAPITOL CITY LODGE NO. 141
FRATERNAL ORDER OF POLICE AND
EATON COUNTY SHERIFF DEPARTMENT
SUPERVISORY DIVISION

INTERIM AWARD
SELECTION OF COMPARABLE COMMUNITIES

I. INTRODUCTION - PROCEDURES

The collective bargaining agreement between these parties expired on September 30, 2002. The Lodge filed with the Employment Relations Commission a Petition for Act 312 Arbitration dated December 27, 2002. The Chairperson's appointment letter is dated March 7, 2003. Pre-hearing conferences were conducted on May 1 and again on May 23, 2003. Participants in the telephone conferences were the Chairperson, Gary P. King, Attorney for the County, and R. David Wilson, Attorney for the Lodge.

During the first pre-hearing conference the parties advised they would be meeting in a mediation session in June. They further advised they want to have a hearing on the matter of comparables. These parties had not before this time ever had an Act 312 proceeding and therefore had no established or agreed-upon communities. Schedules were set for the exchange of exhibits regarding their respective selected comparables and for rebuttal materials.

The hearing on comparables was held on July 30, 2003 at MERC offices in Lansing. The County named James Stewart as its Delegate; the Lodge named Thomas Krug as its Delegate. The parties further advised that the Delegates wanted to meet with the Panel

chairperson before the Decision on comparables issued. Briefs were submitted September 15, 2003.

DISCUSSION AND FINDINGS

The parties have agreed to use these four counties as comparables: Calhoun, Allegan, Lapeer and Lenawee. The County proposes two additional: Clinton and VanBuren. The Lodge proposes four additional: Bay, Grand Traverse, Jackson and Midland.

The County relies on these factors to demonstrate comparability: Population (with related data of population in largest city, density), Square Miles, Taxable Valuation (with related sub-factors such as the ratio of residential taxable and agricultural values, per capita taxable valuation), Proximity to Eaton County. The Lodge's factors are: Population, State equalized value (SEV), Crime statistics, Size and organization of Sheriff's Departments, Calls for service.¹

This analysis will begin with comment concerning the factors or criteria to be used in establishing comparability. The statute provides no guidance. Clearly the other units to be used in this case should be sheriff departments in counties within the State of like size (population and square miles), work load (demand for services, e.g. calls, criminal activity) and tax base (Taxable Valuation or TV). The first two factors relate to work load (demand for services). That could be true of the comparative sizes of the sheriff departments, i.e. the ratio of supervisors (this bargaining unit) to personnel being supervised. Crime statistics are relevant to the workers' exposure to risk as well. Because road patrol is a key element of the sheriffs' responsibilities, data on miles to be covered (vis-a-vis municipalities, state highways) could be informative as to work load.

TV (and TV per capita) gives a picture of the county's ability to pay.

Whether the county is largely rural or urban can be gleaned somewhat from the percent of TV represented by agricultural land as well as data showing if a major city contains the bulk of the population. In the instant case, the Eaton County Sheriff contracts with Delta Township to provide policing services, but the record contains no data to compare that Township with any of the cities of the proposed comparables.

The presence of a dominant city is relevant to consideration of wage levels because typically a city comprises industry and

¹ But, the Lodge's Brief comments that a "a review of the Department sizes reflected in Lodge Hearing Exhibits 18 and 19 are not particularly helpful in making a decision as to comparability in this case..." (p. 9.)

commerce affecting rent and other elements in the cost of living. Information on income levels and/or housing costs in the community is also pertinent to the standard of living in the area, but that information is not provided. The existence of municipal police force(s) also affects the workload for county law enforcement.

Proximity is meaningful as a test only if the above-related data support comparability. My judgment is that proximity is simply a device to limit the number of potential counties to be surveyed. The Lodge confines its selection to the Lower Peninsula and that seems to be sufficient.

The County relies upon a 1992 Opinion regarding comparables from an Act 312 proceeding between Eaton County and Eaton County Deputy Sheriffs, represented by the Labor Council Michigan FOP. (MERC L91-0690, K. Frankland, Chairman.) In the earlier proceeding the parties had each proposed three counties (Calhoun, Allegan, Clinton); that Panel opted for a total of six comparables and selected Lapeer, Lenawee and VanBuren. Thus, if that ruling were to be followed, the County's comparables would carry the day. Concerning the factors ("criteria") that appeared to be most relevant and accepted in that case, the Chairman named population and SEV. (Subsequent tax enactments make Taxable Valuation a better measure.) He also utilized proximity.

The Lodge rejects reliance upon this Opinion, noting that it was issued eleven years ago and involves a different bargaining unit represented by a different labor organization.

My examination of the data for the four agreed-upon counties in this case as they compare to Eaton County is that there is significant deviation in many categories. The County exhibits for several factors separate the comparables' spread from Eaton by brackets of 30% (+/-), 40%, and 50%. The counties simply do not meet on "all fours". However, these are the counties the parties conclude are "comparable" and therefore are useful as a reference point and/or standard.

The following portion of this Decision addresses the factors deemed most relevant to determining comparability and considers not only the comparative data but the weight given to them by the parties as shown in selecting the agreed-upon counties.

Population. The County's figures are for 2000; the Lodge's are for 2002. I will use the more recent. The counties with population closest to Eaton (within 30% +/-) are Bay, Van Buren, Midland and Grand Traverse. Jackson exceeds Eaton by more than 50%. Of the selected comparables, Calhoun population exceeds the 30% deviation.

Density of the population was not a criteria used by either party although clearly it could have an impact upon work load.

My calculation of this figure reveals roughly the same divergence among the proposed comparable counties as found for the selected comparables.

Taxable Valuation. The figures are from the Michigan Department of Treasury, for 2002. Bay, Grand Traverse, Jackson and Van Buren have TV's within 30% of Eaton. Clinton and Midland do not.

Per Capita Taxable Valuation. The counties closest to Eaton in this category are Bay, Clinton and VanBuren. They are closer to Eaton than three of the agreed-upon counties (Allegan, Calhoun, Lapeer).

Ratio of Agricultural TV to Total TV. Eaton's is 5.5%. The agreed-upon counties have ratios of 5.0, 7.7, 11.2, and 12.1. The County's proposed comparables have ratios of 11.2 and 7.4; the Lodge's have ratios of 7.2, 2.0, 1.9. (No figures for Jackson are supplied in the Employer's exhibit from which this data is taken.) Given the wide spread in the agreed-upon counties, I conclude this criteria cannot be deemed critical.

Square Miles. Eaton has 576 square miles. The agreed-upon comparables are all larger: Lapeer (654), Calhoun (709), Lenawee (751), and Allegan (827). The most sizeable difference among the proposed counties is Bay (444), but its deviation is not nearly as large as the differences for two of the chosen counties. Again, this suggests land mass is not a critical factor.

Workload Information. The Lodge has provided data concerning the number of crimes (indexed and non-indexed). The existence of a municipal police force within the county will of course affect the responsibilities of the county officers. With the exception of Calhoun (selected) and Jackson, the remaining counties (those under consideration as well as those being proffered) have criminal activity within roughly fifty percent (+/-) of Eaton.

The Lodge has provided data on "Calls for Service", information procured from records maintained by the offices of the respective counties. I infer the purpose of the data is to convey information about work load, but given the shortcomings in the data concerning department size, the information is hard to appraise.

No uniform or state-wide reporting system for calls for service exists. According to the Lodge, it obtained its data by request from each of the county sheriff offices. The figures represent each complaint or incident responded to by the deputies. The County objects that given its source and the lack of a uniform reporting system, the data is unreliable.

Eaton County is shown to have received 30,016 calls for service in 2002. The selected comparable counties had 20,110


(Allegan), 11,739 (Lenawee), and 9,415 (Calhoun). Lapeer did not provide data for 2002. I note that Calhoun County had a substantially higher number of crimes than the counties under consideration, yet has the lowest "calls for service". This possibly could be due to a substantial police presence (Battle Creek), but that is speculation. If that is the reason, then Eaton County's large number of calls could be due to its contract with Delta Township, but I find the data is hard to evaluate. A further difficulty with the information is that the Lodge did not obtain data about calls for service for Clinton and VanBuren Counties. Given the deficiencies in the record for this factor, it cannot be given much weight in determining comparability.


Data on Principal Cities. The County provided figures (2000) for the population of each county's major city as a percentage of respective total county population. No persuasive reason was given for considering this statistic. Given the information that Eaton County provides policing service to Delta Township but no data on the Township's population or how it otherwise affects the operations, I find the reliance on cities to be limited in value. Further, apart from Midland, all of the proffered counties' major cities are within the same spread as those of the agreed-upon counties. This data is not determinative.

DECISION

On the basis of the foregoing examination of the evidence provided to the Panel, Bay County and VanBuren County will be the two counties selected. They are comparable in terms of population, taxable valuation, per capita taxable valuation. These counties will be used as comparable counties, in addition to the mutually agreed-upon counties of Allegan, Calhoun, Lapeer and Lenawee.


Ruth E. Kahn, Panel Chairperson


Thomas Krug, Labor Delegate
Dissent on VAN BUREN Cty


James Stewart, Employer Delegate
Dissent on Bay County