

3/15/75 ARB

Harper Woods, City of

STATE OF MICHIGAN
MICHIGAN EMPLOYMENT RELATIONS COMMISSION
ACT 312, PUBLIC ACTS OF 1969 ARBITRATION

In the Matter of Arbitration
between:

THE CITY OF HARPER WOODS

- and -

TEAMSTERS STATE, COUNTY AND
MUNICIPAL WORKERS, LOCAL 214

3/15/75

ARBITRATION PANEL'S FINDINGS OF
FACT, CONCLUSIONS AND ORDER

The City of Harper Woods ("City") and Teamsters State, County and Municipal Workers, Local 214 ("Local 214"), the representative of the City's Police Officers, entered into a collective bargaining agreement in 1973, effective January 1, 1974 ending December 31, 1975. The contract in all respects is complete. However, Section 51 of the contract provides for a re-opening on the issue of residency as follows:

LABOR AND INDUSTRIAL
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Michigan State University

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51. RESIDENCY.

The Employer agrees that the issue of residency will be a proper subject for negotiations for the 1975 calendar year.

Such negotiations shall resume on or about September 1, 1974, and failure of the parties to agree, the Union retains the right to submit this issue to Compulsory Arbitration under Act 312. The Employer agrees that such issue is a proper subject for arbitration.

Roumell, George T.

The parties negotiated on this re-opening and reached an impasse. As a result, the parties, by agreement, named James Allen as Union designee and Joseph C. Dorsky as City designee pursuant to Act 312 of the Public Acts of 1969. The panel then selected George T. Roumell, Jr. as the Impartial Chairman. Pursuant to Section 8 of Act 312 (M.S.A. 17.455 (8)) the panel designated that the issue here was not an economic issue, and, therefore, neither party was required to make a last best offer.

Evidence having been taken and a record having been made, the following facts became of importance.

The City of Harper Woods has a population of 20,000 and is 2.6 square miles in size. Since its incorporation in 1951, it has required all City employees, including Police Officers, to live within the City limits.

This residency requirement is so ingrained in the City's hiring practices that all of the officers presently on the Police Force have been recruited as residents of the City. The residence policy is set forth in the City Charter and is as follows:

Sec. 6.9 Employees; residence in city required, exception.--All employees of the city, if not residents at the time of their appointment, shall become residents thereof within six months thereafter and shall so remain while so employed, unless specifically exempted from this requirement by the council.

However, the provisions of this section shall in no way apply to any person who was an employee or officer of the township of Gratiot both on April 10, 1951, and on the effective date of this charter.

The reason for the need for a residency requirement was voiced by the Chief of Police, Nicholas J. Mayer, Jr., who stated its purpose was to ensure effective police protection for the City and its residents. In particular, the Chief explained that arrests have been made within the city limits by off-duty police officers, who, being familiar with the residents of the community, were able to recognize that a crime was in progress.

Another basis for the residency requirement is that the Police Department has a pick-up schedule which provides that officers are picked-up at their home by a squad car at the time they are to report to work. This pick-up system has an advantage to the Police Department in that a full compliment of officers are on duty at all times and there is no manpower loss during shift changes. It is an advantage to the officers who thereby lose no time in going to and coming from work. It is an excellent system that offers advantages to both parties.

Thus, the record reveals that from a police enforcement standpoint, residency has increased effective police protection

In its presentation, Local 214 suggested that in such a small area there is inadequate housing in the community and that there is a disadvantage to police officers living in the community in that neighbors may be hostile to officers who might arrest them. However, the record is devoid of evidence as to these propositions.

The parties must understand that pursuant to Act 312, the arbitration panel must follow the evidence in the record. There is no evidence to support Local 214's allegations. If this Chairman was faced with statistics on housing or incidents of neighbor hostility, he may have been more impressed.

Therefore, on the record, as made, there may be an inclination to favor complete residency here. But the difficulty here is, and the City so admits, that the police recruiting policies have been limited. Though Section 6.9 does not require residency at the time of employment, as a practice in this City, recruiting has been limited to Harper Woods' residents.

The Chairman of the panel is not convinced that Harper Woods is able to recruit the best available manpower from such a small population living within a 2.6 square mile area. This particularly follows with the development of college degree programs in police administrative work. Obviously, the practice as to recruiting in Harper Woods would by necessity limit college graduate recruitments. Furthermore, the limitation to Harper Woods' residents might indeed restrict minority recruiting.

To avoid any claims of discrimination against the City of Harper Woods and to give the City the opportunity to use the best available recruiting techniques and to draw from a broader labor pool, including college graduates, a modification of the residency requirements, insofar as Harper Woods is concerned, is necessary. However, such a modification should be limited because in Harper Woods there is a valid police protection reason for residency.

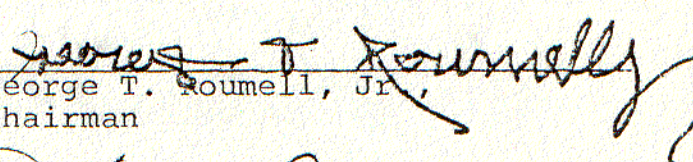
For this reason, the Chairman of the panel will sign an order permitting a modification of the residency requirement to a three (3) mile radius from the Harper Woods City Hall. This modification will increase the recruiting opportunities, and avoid claims that the City is not giving minorities opportunities to apply for police officer positions.


The Union representative advises the Chairman that he does not necessarily agree with his views, but will sign the Order.

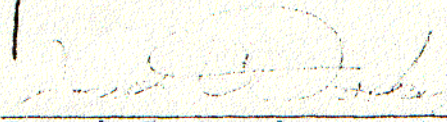
From the Chairman's point of view, the decision herein is limited to Harper Woods and was not influenced by the Inkster decision which was based on a different factual situation. Likewise, the teaching of this decision is that each case must turn on its own record, and thus, should have no bearing on the pending Detroit decision. It is obvious that the residency requirement in Detroit does not limit either minority or college graduate recruitment.

ORDER

IT IS HEREBY ORDERED that Section 51 should now read to the effect that the residency requirement is extended to a three (3) mile radius of the City Hall of Harper Woods effective January 1, 1975. Parties are to draft appropriate language to this effect.


George T. Roumell, Jr.
Chairman


James Allen,
Concurring in Results


Joseph C. Dorsky
Dissenting

Date: March 15, 1975