

344 9-29-89

IN THE MATTER OF ARBITRATION BETWEEN

Michigan Fraternal Order of
Police, Labor Council, Command
Officers,

Association,

LABOR AND INDUSTRIAL
RELATIONS COLLECTION
Michigan State University

-and-

Case No.: D88C-1012
MERC Act 312

CITY OF HAZEL PARK,

Employer.

APPEARANCES:

For the Association: David K. Sucher, Esq.

For the Employer: Daniel J. Bretz, Esq.

ISSUE:

Which parties' list of "comparable cities" more closely
meets the statutory requirement set forth in s/s 9 D of PA 312 of
1969?

AWARD:

The panel awards the City's comparables as more closely
comporting with the requirement set forth in Public Act 312, s/s 9 D
above.

September 19, 1989

Richard L. Kanner, Arbitrator

INTRODUCTION

The parties are engaged in a PA 312, 1969 proceeding. In view of an inability of the parties to agree on a list of cities deemed most comparable to the City of Hazel Park, the parties agreed, pursuant to a suggestion by the Panel Chairman, to submit testimony and exhibits on said issue. The panel is, therefore, charged with the preliminary responsibility to determine which list of cities more closely meets the following statutory requirement:

17.455(39) Bases for findings, opinion and order.]
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:

...

(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.
- (MCL s/s 423.239)

The City has submitted the following cities as comparable:

Clawson
Garden City
Hamtramck
Inkster
Mt. Clemens
Romulus
Taylor
Wayne
Wyandotte

The above list of cities is based on the following factors:

Population
State Equalized Value
State Equalized Value/Capita
Percentage Commercial versus Percentage Residential tax
base
Square mileage of the community
Change in the population between 1980 and 1986
Percentage of college graduates
Mean value of housing units
Percentage of housing units built since 1970
Median household income
Median family income
1986 unemployment rate
Percentage of persons below the poverty level
Size of police department
Crime rate

The union has submitted the following cities as comparables:

Clawson
Ferndale
Madison Heights
Royal Oak

The union selected its comparables based on the following factors:

1. Population (Growth, Density, Population)
2. Land Area
3. Officers Per Square Mile
4. Officers per Capita
5. State Equalized Valuations
6. Per Capita S.E.V.
7. Crime Statistics
8. Taxes
9. Housing
10. Income.

Absent any statutory or case law definition of the word

"comparable", the following Webster's Dictionary definition is generally applicable:

- "1. capable of or suitable for comparison.
2. equivalent, similar." Webster's, at p. 267

But such definition still leaves open the criteria upon which a conclusion as to comparability is based.

Fundamentally, the rationale underlying the statute is equal pay for equal work. That is to say that the parties' last best offer which most closely relates to the median wage of a group of comparable cities should be accepted by the panel. But a simple comparison of wages between comparable cities wherein the work load is similar is not solely controlling. If such were the sole criterion, the wealthiest and poorest communities, given a similar work load, would be expected to pay the bargaining unit a similar wage and benefits. But such a result defies common sense and experience. Whether in the public or private sector, realities dictate that the more fiscally sound and affluent the city or enterprise, the higher the wages and benefits. It is by virtue of a recognition of such fact that the legislature qualified the equal work for equal pay concept by a clear reference to "comparable" communities.

It is often the case the crime rates are higher in poor communities. Accordingly, the work load, responsibility, and danger faced by police officers in such communities is often higher than faced by police officers in less crime ridden areas. Notwithstanding such discrepancy, the wages in the poor communities are generally lower.

While such result may be unfair, the statute does not, as aforesaid, rest upon equal pay for equal work. It is the comparison in comparable communities that is emphasized in s/s 9.

Aside from the above dictionary definition, the phrase, "comparable communities", intends that the economic level of the community is the major and controlling factor. Such factor is directly related to state equalized value per capita of all taxable real estate in the community. It is by such factor that the ability of the municipality to raise taxes in order to pay salaries of police officers is determined.

Accordingly, poor communities are to be compared with poor communities and wealthy communities with each other. To hold otherwise would penalize the poorest of our citizens by placing on them the burden of paying the higher wages that are paid by wealthy communities.

The other criterion set forth in s/s 9 D above, which the panel deems controlling in terms of comparison in "comparable communities," is "similar services", i.e., crime rate per police officer. By consideration of such additional factor, the principal of equal pay for equal work is served. Therefore, police officers handling approximately the same number and kind of crimes and exposed to similar dangers and responsibilities should, when employed by cities in similar economic circumstances, be paid as close to the median level as possible of these comparable cities.

The union, while acknowledging the importance of S.E.V. per capita, seeks to give equal emphasis to geography and population size.

It asserts that the panel should take into account the total picture including all of the above factors, and give equal weight to each factor.

In the panel's view the factor of contiguity has limited value in terms of comparability. Except in the area of mutual aid packs, wherein contiguous cities agree to aid and support each other, the fact of contiguity has little to do with similarity. More wealthy cities oftentimes are contiguous to poor cities.

Placement of the comparable cities within a general geographical area has some efficacy. This by reason of the fact that the labor pool therein tends to have generally similar characteristics as to skills and availability. Also, wages within a general geographical area tend to be similar as are crime statistics. It makes little sense to compare a city in northern Michigan with one in the Wayne, Oakland, Macomb County area notwithstanding similarity in S.E.V per capita.

Since crime rings and other more major criminal elements tend to congregate in larger communities, it is, therefore, better practice to select as comparables those cities with similar population. Therefore, the panel cannot agree with the union that all of the above criteria should be equally weighted. The main emphasis should be on S.E.V. per capita and crime statistics.

It is within the purview of the above general principals that the merits underlying each parties list of comparables will be addressed.

GEOGRAPHICAL LOCATION AND POPULATION SIZE

The union initially surveyed all cities within a fifteen mile radius of Hazel Park. The comparable cities finally selected fall within Oakland County.

The population of the four cities selected by the union range from 14,100 (Clawson) to 66,190 (Royal Oak) with Hazel Park at 20,200. (Union 4, 5) All of the union's comparables are contiguous or in close proximity.

The City's nine comparables are distributed between Oakland, Wayne, and one in Macomb County. Their population ranges from 14,100 (Clawson) to 72,440 (Taylor) with Hazel Park at 20,200.

DISCUSSION AND OPINION

In the panel's view there is nothing sacrosanct about confining comparables to a particular 15 mile area. Such limitation, as conceded by the union, is arbitrary, and was only used as a starting point. The said three counties are considered as one large metropolitan area containing a similar makeup of labor pool, and a mix of cities of varied economic levels, and a similarity of crime statistics. However, as hereinafter set forth, Oakland County may generally be characterized as more affluent than Wayne or Macomb Counties.

As to population, both parties' comparables present reasonable parameters of city size denoting some similarity with that of Hazel Park.

STATE EQUALIZED VALUE PER CAPITA

The median S.E.V. per capita for the nine comparables chosen by the City, excluding Hazel Park, is \$9,941.00 with Hazel Park near the bottom at \$7,598.00 or a differential of \$2,343.00. (City 1)

The median S.E.V. per capita for the four cities chosen by the union, excluding Hazel Park, is \$11,525.00 with Hazel Park at the bottom at \$7,146.00 or a differential of \$4,379.00. (Union 11)¹

It is, therefore, readily apparent that Hazel Park is much closer to the median of S.E.V. per capita figures in the City's comparables. As such, Hazel Park is more similarly situated as to economic well-being.

Further, the City's evidence dramatizes the fact that its list of comparables, with the exception of Romulus and Clawson, suffer from the same lack of growth rate as to S.E.V. values from 1980 - 89 as does Hazel Park. (E 13 - 14) To the contrary, S.E.V. per capita in Madison Heights was \$15,900.00 in 1987 (Union 11); whereas by 1989 it had risen to \$19,172.00 (C 24), a 21% increase. Similarly, the same exhibits show Royal Oak rose from \$11,818 to \$14,639, a 24% increase; Ferndale rose from \$8,927 to \$10,146, a 14% increase; Clawson rose from

1. The difference between the City and the Union S.E.V. per capita for Hazel Park results from the fact that the City figure derived from 1989 S.E.V. records and the union's figure from 1987 S.E.V. records. The current 1989 figures are more appropriate. Both parties' population figures derived from 1986 records.

\$11,232 to \$12,888, a 15% increase. Over the same two-year period, these exhibits show that the City of Hazel Park rose from \$7,146 to \$7,334, a 3% increase.

RATE OF TAX LEVY

It is also appropriate, when considering the economic health of the community, to determine if it is taxing its constituents at the maximum legally allowable millage.² It readily appears that Hazel Park is taxing at the maximum millage rate. However, Clawson, Madison Heights and Royal Oak are well below their maximum levy. (Union 14)

Accordingly, while considerably less affluent than these cities, Hazel Park is pulling its weight to the maximum in deriving tax revenue in order to pay city employee wages.

CRIME RATES

In the panel's view, it is the crime rate per command officer that is the pertinent factor relative to comparability with other cities. Command officers per capita of population or per square mile does not indicate the extent of "similar services" performed.

However, it should be pointed out that even crime rate per command officer should not be overly emphasized. All command officers in comparable cities are presumed to work a full forty hour work week, and do perform "similar services". The significance of the factor of

2. The Home Rule Cities Act, MCLA 117.5 (a) sets a maximum tax rate of 20 mills value of real estate.

crime rate per command officer is simply that, where it exceeds the median of comparable cities, it denotes a greater backlog of cases to be investigated and supervised. Such a backlog does put additional pressure on the command officer.

The union's evidence relative to the total number of crimes covers only major crimes such as murder, rape, robbery, etc. (Union 12) Such evidence denotes a total of 2,270 of such major types of crime in 1987.

The City's evidence, however, pertains to 1988, and covers all types of crimes and notes a total of 19,704. (City 34) Since the City's data is more current and covers all types of crimes, and also includes the status of the union's comparables, (City 33, 35) as well as its own, the panel will use the City's data.

There are eleven command officers in Hazel Park. Accordingly, the number of crimes per command officer in Hazel Park is 1,791. The median of the number of crimes per command officer in the City's comparables³ is 1,218. (City 32, 34) Therefore, Hazel Park exceeds the median by 573.

The median of the number of crimes per command officer in the union's comparables is 1,206. (City 35) Therefore, Hazel Park exceeds the median by 585.

3. Inkster is left out as no crime statistics were reported.

Hence, it is apparent that both sets of comparables are substantially equal in terms of work load for command officers referenced to the median of comparable cities.

RATIO OF COMMAND OFFICERS TO POLICE OFFICERS

Command officers investigate crimes and also supervise police officers. Therefore, the ratio of command officers to police officers also becomes pertinent in terms of work load. Using the City's figure of 40 budgeted police officers, rather than the present 33 officers, the ratio of command officers to police officers is 3.6. The median ratio referenced to City's comparables is 3. (C 32)

The median ratio referenced to the union's comparables is 4. Therefore, each command officer in Hazel Park has to relate to .6 more police officers relative to the City's comparables and to .4 less than the union's comparables. While the burden on the command officers in Hazel Park is, therefore, somewhat greater, it is not significant in the panel's view.

Accordingly, crime statistics and ratio of command officers to police officers does not significantly impact on differentiating Hazel Park command officers from the comparable cities of both parties.

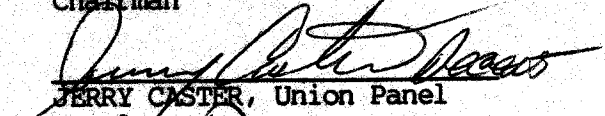
In the panel's opinion it is not necessary to address other evidence denoting lower income levels and declining population and low housing values in Hazel Park as compared to comparables as such statistics are subsumed in the S.E.V. per capita figure.

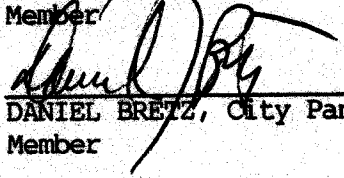
AWARD

The panel awards the City's comparables as more closely
comporting with the requirement set forth in Public Act 312 s/s 9 D
above.

Dated: 9/29/89


RICHARD L. KANNER, Panel
Chairman


JERRY CASTER, Union Panel
Member


DANIEL BRETZ, City Panel
Member