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STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION  
ACT 312 -- COMPULSORY ARBITRATION PANEL

In the Matter of:  
City of Huntington Woods,  
Employer,

Michigan State University  
LABOR AND INDUSTRIAL  
RELATIONS LIBRARY

and

Case No: D-81-A-128

Huntington Woods Command Officers  
AFSCME, Local 3075, Council 25,  
Union.

FINDINGS, OPINIONS, AND AWARD

On May 11, 1981 the Arbitration Panel was formed with Richard Strichartz as chairperson, Gary Eisenberg, city representative, and Hugh MacDonald, union representative. The statutory time limits were waived by stipulation of the parties and the first meeting scheduled for June 29, 1981. This was the only hearing held by the panel. Representing the city was John A. Entenmen, attorney, and for the union was George M. Maurer, Jr., attorney. Since all the other issues had been settled by prior agreement between the parties, the panel was asked to consider issues regarding pension improvements for certain retired employees (Benefit Program E), and a shift to Plan B-2 of MERS Retirement System with Section 47f waiver for the 1980-81 period.

Following opening argument by Mr. Entenman, the Union called the City Manager, Mark Wollenweber, as its witness and examined him as to certain exhibits and the course of negotiations. The final Union witness was the actuary, Alan Sonnenstine, who was questioned as to certain exhibits and certain adjustments in the figures submitted. The Union then rested.

Strichartz, Richard

LABOR AND INDUSTRIAL  
RELATIONS LIBRARY

Huntington Woods, City of

The city called Mr. Sonnanstine as its witness to describe the existing pension system and the impact of the proposed changes. Mr. Wollenweber was questioned about the present city personnel system and the police contracts, and the joint exhibits and city exhibits. Upon conclusion of the City's presentation, the parties were given until July 9 to submit exhibits. Since the parties did not ask for a hearing at that time, the last best offers were submitted by the parties about July 9 and they were given 30 days to submit briefs. The panel members met on August 26, 1981 to consider all these matters.

Huntington Woods is a small city with a declining population. The Union represents five members but has had an historic relationship of parity with the public safety officers even reflected in the contract language up until this year. The improvements in the pension plans must be considered in two separate categories, the first dealing with the retirees, and the second for active duty members.

#### PART ONE

There are two retirees and the Union seeks Benefit Program E effective January 1, 1981. It is the City's position that Act 312 does not apply to retirees since it is solely a permissive subject of bargaining not subject to compulsory arbitration within the definition of "employee" under Act 312 and the Public Employees Relations Act. Further, the Panel notes that this improvement once granted may not be reduced or diminished under the State Constitution, Art. 9, § 4.

After reviewing the arguments contained in the briefs, it is the Panel's view that the Benefit Program E should not be granted as it is not within the authority of the panel to make this award.

#### PART TWO

The Union has asked that the City adopt the B-2 pension program and maintain the 47f waiver. The City does not wish

any change in the existing pension program, B-1 (with 47f waiver).

Under Act 312, Section 9 describes the applicable factors to be considered as the basis for findings, opinions, and orders.

There is no dispute as to the lawful authority of the employer. There were no stipulations of the parties. In the argument and testimony as to the factors in subparagraph (c) "The interests and welfare of the public and the financial ability of the unit of government to meet these costs" the City showed that its population was declining (-18.7% from 1970-1980) as did housing units (-1.2%)--Joint Exhibit 6. And there was an anticipation of further loss due to expressway construction (TR-73). In further colloquy with the Union attorney, the City Manager reflected concern about the long term fiscal implications of pension improvements (TR-74). The actual figures of the cost of the proposed pension improvements were presented in the actuary's report (Joint Exhibit 11) and the testimony of the actuary for the pension system. Some modest adjustments were made in the figures to remove the Chief but they still would impose a substantial additional contribution by the City over the next 26 years if the benefit were granted. Any improvement in pension benefits which has a substantial impact over such a long period should be weighed very carefully to take account of the interests of the public.

Further, the historic relationship between the command unit contract and the officers where parity has been maintained, would indicate that the City will be faced with a similar demand from the officers if the Union demand is granted.

In considering the comparables in public and private employment, as described in section 9(d) of the statute, the panel was presented with a series of exhibits. The City based its Exhibit 2(a) on three criteria:

1. The community must be located in Michigan  
Municipal Area 1.

2. The Community must have a 1980 population between 4,000-9,999.
3. The Community must participate in the Michigan Employees' Retirement System (MERS).

The Union's comparables can be found in Union Ex. 1, with corrections and "elaborations" in City Ex. 4 and 5. The list includes the encircling communities surrounding Huntington Woods and others which are either near Huntington Woods or are of comparable size (Union Ex. 1 cover page). It is a much longer list (33 communities) than the City's list (9 communities) but omits Huntington Woods. Although the panel had difficulty with the long list of communities submitted by the Union as not being truly comparable, it still felt that the City's list was rather narrowly drawn. In either event, the material discloses very few communities with the B-2 benefit, while a number of communities have Social Security. The cost to the city and to the individual for participation in Social Security are not indicated. The Union brief strongly suggests that the City is not paying enough for this benefit when compared with its list of communities. However, the panel feels that a significant aspect of any comparable when considering a pension benefit must be whether it is a participant in the same pension system-- in this case MERS.

No matter what this panel concludes, the 47f waiver will still continue for the members of the Union.

Having examined the comparable communities presented by the parties, and having considered the arguments made in the briefs, it is our view that the total wage and fringe benefit program presently provided by Huntington Woods is fair and rejects the Union's last best offer and accepts the City's last best offer. (See Section 47f of Act 312.)

No evidence was presented as to the cost of living (Section 9(e)) although the Panel takes judicial notice of the rise in the Consumer Price Index. The previously negotiated wage settlements has dealt with this issue in large measure. There were no changes in the foregoing factors (Section 9 (g)) nor were there

any other factors brought to the panel's notice (Section 9 (h)).

ORDER

It is ordered that the last best offer by the City as to the pension improvements for retirees is approved and Benefit Program E is denied.

It is further ordered that the City's last best offer as to current employees of the Union is approved and Plan B-2 of MERS is denied.

Richard Strichartz  
Richard Strichartz  
Chairman

Hugh McDonald concurs Part I dissent Part II  
Hugh McDonald

Gary Eisenberg  
Gary Eisenberg

Sept 4, 1981