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ARBITRATOR

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STATE OF MICHIGAN
DEPARTMENT OF COMMERCE AND INDUSTRY SERVICES
- EMPLOYMENT RELATIONS COMMISSION
STATUTORY INTEREST ARBITRATION TRIBUNAL

In the Matter of the Arbitration
Pursuant to Act 312 (Public Acts of 1969):

CITY OF PONTIAC

Case No. D96 E0845

-and-

MICHIGAN ASSOCIATION OF POLICE
(PONTIAC POLICE OFFICERS' ASSOCIATION)

PANEL'S OPINION AND AWARD

Issues: Residency and Longevity

Date of Hearing: April 12, 1997

Date of Award: April 22, 1997

Arbitration Panel:

Chairperson of Arbitration Panel: Stanley T. Dobry
City Delegate: John C. Claya, Deputy City Attorney/Labor
Union Delegate: Thomas Schneider, Executive Secretary

Appearances:

For the City:

KELLER, THOMA, SCHWARZE, SCHWARZE, DuBAY & KATZ, P.C.

By: Linda M. Foster
and Dennis DuBay

Attorneys

For the Union:

HOEKENGA AND FARRELL, P.C.

By: M. Catherine Farrell,

Attorneys

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

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ARBITRATOR'S OPINION AND AWARD

I. STATEMENT OF THE CASE

The labor organization, Michigan Association of Police (MAP), filed a petition for arbitration pursuant to Act 312, P.A. of 1969 as amended (M.C.L.A. 423 231, et seq.). The union asserted in its petition dated November 20, 1996, that it had engaged in good faith bargaining with the employer, the City of Pontiac, on behalf of the City police officers and an impasse in negotiations had been reached. The Michigan Employment Relations Commission (M.E.R.C.) appointed Stanley T. Dobry as the impartial Arbitrator and Chairperson of the Arbitration Panel in this matter. Respectively, the City and Union appointed John C. Claya, Deputy City Attorney/Labor and Thomas Schneider, Executive Secretary, as their delegates to the Arbitration Panel. The parties stipulated and established the hearing procedures to be followed in a pre-hearing conference conducted on February 3, 1997.

II. ISSUES BEFORE THE ARBITRATION PANEL

The hearing was held at the Pontiac City Hall on April 12, 1997. All witnesses were sworn, and a complete record duly made. The panel has carefully and fully reviewed that record, in light of the statutory criteria indicated hereafter.

At the hearing, the parties presented a detailed Stipulation which is adopted by the Arbitration Panel as part of this Opinion and Award. Pursuant to the parties' stipulation, there remain two unresolved issues to be decided by the Arbitration Panel: Residency (raised by the Union) and Longevity (raised by the City).

The parties stipulated as follows:

1. The term of the parties' new collective bargaining agreement shall be January 1, 1997 - December 31, 1999.
2. The parties' new collective bargaining agreement shall consist of the parties' prior contract (January 1, 1991 - December 31, 1996) as amended by their Tentative Agreements set forth in the Stipulation and the Arbitration Panel's Award on the two unresolved and outstanding issues (Residency and Longevity)
3. The parties' Tentative Agreements shall be incorporated into the part[es]' new collective bargaining agreement. The parties' Tentative Agreements are as follows:
 - (a) Article XVI - Leaves of Absence, Section 16.1 General Leaves of Absence, Subsection A Requesting Leaves of Absence.
 - (b) Article XVI - Leaves of Absence, Section 16.5 Family Medical Leave Act.
 - (c) Article XX - Bereavement Leave, Section 20.1.
 - (d) Article XXIV - Insurance, Section 24.1 Health Insurance.
 - (e) Article XXIV - Insurance, Section 24.6.
 - (f) Artic[e XXIV - Insurance, Section 24.7.

(g) Article XXVII - Pension/Retirement, Section 16.5 Defined Contribution Committee.

(h) Article XXVII - Pension Retirement, Section 27.5 Pension Contribution.

(i) Wages.

4. The parties agree that the following two unresolved issues remain for determination by the Arbitration Panel and all other issues have been settled or waived:

Union: Residency

City: Longevity

The parties' Stipulation is hereby incorporated into this Award.

The Arbitration Panel has determined that, for purposes of this proceeding, the issue of residency is non-economic. The Arbitration Panel, thus, must issue an award based upon the applicable factors in the Judgment of the Panel, prescribed in Section 9 of the Act.

Further, the Arbitration Panel has determined that, for purposes of this proceeding, the issue of longevity is economic. The Arbitration Panel, thus, must issue an award adopting the Final offer of settlement of one of the parties which, in the opinion of the Arbitration Panel, more nearly complies with the applicable factors prescribed in Section 9 of the Act.

III. THE STANDARDS FOR THE PANEL'S DECISION

In pertinent part, Section 9 of Act 312 sets forth the following factors upon which the Panel's decision must rest:

[T]he arbitration panel shall [emphasis added] 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 these 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 foods 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.

IV. COMPARABLES

A. External Comparables

The parties entered a Stipulation, dated February 17, 1997. with respect to the external communities and bargaining units deemed comparable in this proceeding. They follow:

Bloomfield Township	Royal Oak
Canton Township	Shelby Township
Clinton Township	Southfield
Dearborn	St. Clair Shores
Dearborn Heights	Sterling Heights
Farmington Hills	Taylor
Lincoln Park	Troy
Livonia	West Bloomfield Township
Redford Township	Waterford Township
Roseville	Westland

B. Internal Comparables

Union	Unit
A.F.S.C.M.E. Local 2002	Public Works
I.A.F.F.	Fire Fighters
P.M.E.A. (Pontiac Municipal Employee Association)	Clerical Employees
P.P.M.A. (Pontiac Professional Management Association)	Managers
P.P.S.A. (Pontiac Police Supervisors Association)	Police Command Officers
S.A.E.A. (Supervisors and Administrators Employees Association)	Supervisors

The parties just recently participated in an Act 312 Arbitration proceeding (M.E.R.C. Case No D93 K-1457, Barry Brown, Chair), in which the Opinion and Award issued on April 9, 1996. That Award covered a contract term of January 1, 1991 through December 31, 1996 and involved 21 issues presented over 12 days of formal hearing. Much of the evidence submitted there remains current and probative. By agreement of the parties it was entered and relied upon by the parties in this proceeding.

In addition, new and significant exhibits and testimony on the two unresolved issues were submitted here.

By agreement of the parties, the final offers of settlement on the two unresolved issues were submitted at the outset of the formal hearing. The parties' final offers are as follows:

A. Union Issue - Residency (Article XXVIII)

Union Last Best Offer:

Eliminate residency requirement entirely for all bargaining unit members.

City's last Best Offer:

Maintain status quo and make no changes in current language on this provision.

B. City Issue - Longevity (Article XXIII)

City's last Best Offer:

Add the following new language to Article XXIII, Longevity.

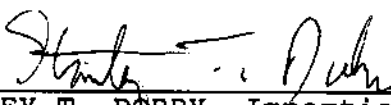
"23.8 Employees hires after the date of the Award shall not be eligible for Longevity."

Union Last Best Offer:

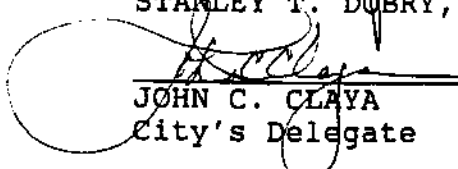
Maintain status quo and make no changes in current language on this provision.


VI. AWARDS ON THE TWO UNRESOLVED ISSUES.

Based upon all of the evidence, testimony and arguments presented by the parties, and in light of all of the applicable statutory criteria, a majority of the Arbitration Panel has determined that an award modifying the current residency provision and the City's final offer with respect to longevity should be adopted. The Awards are at attached hereto. The City and Union delegates and panel members sign this overall award with the express caveat that they have are steadfast in their dissent or concurrence on the individual issues, as indicated in their signed awards hereafter. Their signature simply indicates their recognition that a majority of the Arbitration Panel supports each award on the separate issues.


STANLEY T. DOBRY, Impartial Chairperson

Dated: April 22, 1997


JOHN C. CLAYA
City's Delegate


THOMAS SCHNEIDER
Union's Delegate

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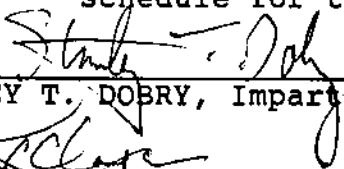
MICHIGAN ASSOCIATION OF POLICE
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Award on Residency Issue

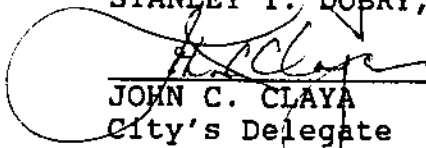
Union Issue - Residency

Award: Effective the date of this Award, the following new
Section 28.1(A) shall be added to Article 28.1 - Residency:


"A. A Police Officer who, has 22 years of service and who, in writing, states that he/she will retire from City employment within three (3) years of said purchase may move into a purchased home or condominium outside the city limits of Pontiac but in Oakland County provided said home or condominium is intended to serve as his/her residence. If said police Officer does not retire at the time so stated he/she may be, at the sole discretion of the City, demoted to and be paid the two (2) year rate of pay on the salary schedule for the duration of his/her employment "


STANLEY T. DOBRY, Impartial Chairperson

Dated: April 22, 1997


JOHN C. CLAYA
City's Delegate

Concur _____ Dissent ✓


THOMAS SCHNEIDER
Union's Delegate

Concur ✓ Dissent _____

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Award on Longevity Issue

City Issue - Longevity

Award: The City's Last Best Offer is adopted and awarded.

The following new Section 23.8 shall be added to Article
XX111 Longevity:

"23.8 Employees hired after the date of the Award,
shall not be eligible for longevity."


STANLEY T. DOBRY, Impartial Chairperson

Dated: April 22, 1997


JOHN C. CLAYA
City's Delegate

Concur _____ Dissent _____


THOMAS SCHNEIDER
Union's Delegate

Concur _____ Dissent ✓