

2164

**STATE OF MICHIGAN
COMPULSORY ARBITRATION**

In the Matter of:

CITY OF FRASER,

Employer,

**Arising pursuant to
Act 312, Public Acts
Of 1969, as amended**

-and-

Case No: DO5 C-0379

**POLICE OFFICERS ASSOCIATION
OF MICHIGAN,**

Union.

PARTIAL AWARD OPINION

Date of Decision: January 2, 2007

PANEL

**Harry W. Bishop, Arbitrator
Jeffrey A. Bremer, Employer Delegate
James Tignanelli, Union Delegate**

APPEARANCES

**John Dolan
York, Dolan & Tomlinson, P. C.
42850, Garfield, Suite 101
Clinton Township, MI 48038**

**William F. Birdseye
Police Officers Association
of Michigan
27056 Joy Road
Redford, MI 48239-1949**

INTRODUCTION AND BACKGROUND

This matter was held pursuant to PA 312 of 1969, as amended by Act 127, PA Of 1972 (MCLA 423.231 et seq.). The Petition for Act 312 Arbitration was filed by the Employer, in the person of Jeffrey A. Beamer, Fraser City Manager, on May 10, 2006. There are 31 employees in the 312 group. I was appointed as the panel Chairperson on July 21, 2006.

A pre-hearing conference was held on October 11, 2006, at which time delegates were identified and issues determined. One of the issues involved comparables that were to be used. The case was remanded back to mediation in a further attempt to resolve unsettled issues. Further mediation failed to resolve the issues. The parties indicated that with a partial award on comparables, there could be further negotiations on the unsettled issues without additional 312 hearings.

The parties have requested a partial award to establish comparables. The issue was comprehensively briefed by both parties without a hearing.

COMPARABLES

The parties have selected the following comparables:

**UNION
Center Line
Clinton Township
Roseville
Sterling Heights
Warren**

**EMPLOYER
Center Line
Berkley
Farmington
Grosse Pointe Park**

All of the Employer's proposed comparables are public safety departments.

The Union's proposed comparables are based on a prior Act 312 award (MERC case No. 089 C-0841) and negotiating history.

DISCUSSION OF COMPARABILITY

The issue in this matter is derived from Section 9 (d) of Act 312 which states:

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.**

The Employer is asking the arbitration panel to select their list of comparables because its list is similar in that:

- (1) Each comparable is a public safety unit.**
- (2) Their population ratios are not as disparate.**
- (3) Their tax base ratios are not as disparate.**

It is noted that the list submitted by the Employer selects just three items for comparison purposes. Although the Employer makes an interesting argument for its choices of comparables I am not persuaded that limiting the comparables to those three items would justify such a change.

The Union is asking for the same set of comparables established for the City of Fraser and the Police Officers Association of Michigan in a prior 312 Arbitration Award in MERC Case No. D89 C-0841. The contract agreement arbitrated by Mr. Vernana ended in 1992. The present Arbitrator puts great weight on the fact that subsequent contract negotiations between the parties since 1992 have resulted in

Changing comparables at this time would be repudiating the history of successful contract negotiations since 1992. This Arbitrator is not saying that comparables should never be changed, but to do so would require extraordinary circumstances. The issue of comparables was comprehensively addressed by Arbitrator Anthony Vernana. I find no new or extraordinary circumstances that would indicate a need to change the historical comparables established by Mr. Vernana in the present case.

OPINION

The comparables will be those proposed by the Union, namely Center Line, Clinton Township, Roseville, Sterling Heights, and Warren. I retain jurisdiction of this case until all issues are resolved.

Harry W. Bishop, Arbitrator Harry W. Bishop Date 01/08/07 ^{HWB}
01/01/07

I concur with the issue awarded in favor of the Union

Union Delegate, Jim Tignanelli Jim Tignanelli Date 1-12-07

I dissent with the issue awarded in favor of the Union.

Employer Delegate, Jeffrey A. Beamer Jeffrey A. Beamer Date 1-11-07