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STATE OF MICHIGAN  
COMPULSORY ARBITRATION

In the Matter of:

CITY OF FRASER,

Employer,

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

Case No: DO5 C-0359

-and-

POLICE OFFICERS ASSOCIATION  
OF MICHIGAN

Union,

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PARTIAL AWARD OPINION

Date of Decision: May 29, 2007

PANEL

A. Robert Stevenson, Arbitrator  
Jeffrey A. Bremer, Employee Delegate  
Thomas Griffin, Union Delegate

APPEARANCES

John A. Dolan  
York, Dolan & Tomlinson, P.C.  
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William F. Birdseye  
Police Officers Association  
of Michigan  
27056 Joy Road  
Redford, MI 48239-1949

Testimony was presented on behalf of the Employer by David Harrington, CPA with Plante and Moran, that there is no local labor market as used as a basis of Arbitrator Vernana decision for comparables in the early 1990's citing among other things the abolishment of the former local residency requirements. Also, in terms of size smaller communities have a smaller tax base and thus cannot spread fixed cost of employees as well as larger communities varying the cost per capita which raises comparability issues. Employer Ex #2 shows the cost per capita range from of \$309.17 for Clinton Township to \$474.67 for Fraser for police and fire.

Amy Sullivan, an Employer witness, testified as to the job description of dispatchers in all the comparables as being essentially identical. She also testified on the number of service calls with Warren the high of 69,638 to low of Farmington 6,579 (Fraser 19,051) and the number of full time budgeted employees with the highest being Sterling Heights with 23 and Grosse Pointe Park 4 (Fraser 6). Jeff Bremer, City Manager, testified that mutual aid was County wide and mutual aid was not a factor and in practice only Roseville not cited as one of the appropriate comparables, has been involved. He also testified EMD training was offered on a voluntary basis with compensation of \$775.00 for those who took the training. He also testified that the medical aid calls were only a very small per centage of the calls received (.0018% of calls received).

Wendy Mohaske, Dispatch Union Vice President, testified as to the EMD training she received and other members of her Union. She testified that the department this year has received over 505 medical calls. She testified that Sterling Heights and Warren are EMD trained and Clinton Township handles EMD through its fire department. Further she testified that Grosse Pointe Park and Farmington were not EMD. Amy Sullivan called Farmington and latter testified that Farmington had EMD training.

The Union in its brief p.6 states that in the current work force of six all but one live in the Unions suggested comparable. Also the Union asserts that Fraser, in spite of the size of the community, has a very sophisticated dispatch center and thus should only be compared with similar operations ( Union Brief p.8).

The question, of course, is how do we deal with evidence regarding the communities that each party separately indicates are comparable, but yet could not agree are comparable?

## INTRODUCTION AND BACKGROUND

This matter was held pursuant to PA 312 of 1969, as amended by Act 127, PA of 1972 (MCL 423.231 et seq.). The Petitions for Act 312 Arbitration was filed by the Union, in the person of John T. Barr, January 30, 2007, for all full time and regular part-time dispatchers of the City of Fraser, Department of Public Safety, excluding all other employees of the Public Safety Department. There are 6 employees in the 312 group. I was appointed as Panel Chairperson on March 23, 2007.

An Initial Prehearing Conference was held on April 18, 2007 at which time delegates were identified and issues determined. One of the issues involved comparables that were to be used. The parties requested a partial award to establish comparables. The issue was comprehensively briefed by both parties and a hearing was held on May 22, 2007.

## COMPARABLES

The parties have selected the following comparables:

UNION	EMPLOYER
Warren	Centerline
Sterling Heights	Farmington
Clinton Township	Grosse Pointe Park

All of the Employer's proposed comparables are public safety departments. The Unions proposed comparables are based on prior ACT 312 awards (MERC case NO. 0809 C-0841, D05 C0379) 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 the public employment in comparable communities.
- (ii) In private employment in comparable communities.

Act 312 does not define “comparability” but there are lists of commonly used factors that might be used in determining “comparability.” Some of those factors include, population, land area, geographic proximity and tax base.

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.

The Employer argues that the Unions comparables are substantially larger than Fraser with a population of 15, 297 in that Warren is 9 times larger, Sterling Heights is 8 times larger, and Clint Township is 6 times larger than Fraser(City Brief p 3 ).

In taxable value Fraser is over 8 times smaller than Warren and Sterling Heights and 5 times smaller than Clinton Township (City Brief p 4 ).

The Employer and the Union concede that there is no material distinction that exists with regard to the job descriptions of dispatchers between the Union Comparables and Employer Comparables .

The Unions position is that its first step in selection of comparables is to identify the appropriate geographic orbit of comparison (Union Brief p.2). Where will the panel find the workers in public and private sector performing similar work? The Union has identified three governmental units (Warren, Sterling Heights, Clinton Township) that have a full-time full-service dispatch functions and are contiguous to the border of Fraser. The Union asserts that this qualifies as a test that meets the criteria of “employees performing similar work.”

Three cases have been tried involving the City of Fraser and its Public Safety Employees. In 1979 a decision was rendered by William Dance involving the Fraser Dispatchers. The opinion on p. 10 states without identifying them, “Both parties have set forth their

comparables and the thoroughness with which they indicated the manner of methodology in choosing the comparables has been most helpful to the Panel. These comparables have been carefully considered and the areas of comparability, such as population, per capital income, crime per population, the nature of the individual performing the dispatching duties, and whether the dispatchers are full time or part time, and the other matter introduced into evidence have been considered by the Panel in coming to its Decision and Award.”

In 1989 a decision was rendered by Anthony Vernava involving Fraser’s patrolmen and public safety officers. The opinion on page 3 states, “Fraser has a significant industrial base and forms a corridor with several larger neighboring communities....Fraser’s contiguous and surrounding communities include: Clinton Township, Roseville, Sterling Heights, Warren and Centerline. These communities have, according to the data in the record, much larger populations, but they, together with Fraser, essentially constitute an economic labor market.” Page 4 “These communities border and surround Fraser.”

In a 2007 a decision was rendered by Harry Bishop involving Fraser’s patrolmen and public safety officers. In discussing the Employer’s suggested comparables he states on page 4, “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.”

At the hearing the Employer position is that the assumptions of Arbitrator Vernava 16 years ago are not true today. Fraser is a public safety community (combining police and fire departments) and should be compared with other public safety departments. There are some 15 such departments of which the Employer has selected 3. They also cite Center Line and POAM Case No. D01 C-311 Employer p.6. In that opinion Arbitrator Mark Glazer stated at P.8, “The parties are in agreement as to three of the comparables: Farmington, Grosse Pointe Park and Huntington Woods”, two of which are Employer suggested comparables in this case.

Testimony was presented on behalf of the Employer by David Harrington, CPA with Plante and Moran, that there is no local labor market as used as a basis of Arbitrator Vernana decision for comparables in the early 1990's citing among other things the abolishment of the former local residency requirements. Also, in terms of size smaller communities have a smaller tax base and thus cannot spread fixed cost of employees as well as larger communities varying the cost per capita which raises comparability issues. Employer Ex #2 shows the cost per capita range from of \$309.17 for Clinton Township to \$474.67 for Fraser for police and fire.

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The question, of course, is how do we deal with evidence regarding the communities that each party separately indicates are comparable, but yet could not agree are comparable?

There is a substantial amount of evidence regarding these communities and given the criteria established by the parties, it would be inappropriate to ignore all that data. Weight should be given in varying degrees to the party's comparables.

While there is no definition of "Comparability" in the Act, many factors are used to arrive at a decision on comparability but no one factor dominates. Since Center Line, as a comparable, has been part of Vernana and Bishop decisions in the past I would favor their inclusion. In this case while there are no perfect comparable communities to Fraser various elements of each of the communities proposed has some rational to the Fraser negotiation and I would award all 6 as comparables and take the list into consideration when I rule on the issues.

#### OPINION

The external comparable will be Centerline, Clinton Township, Warren, Sterling Heights Farmington, and Grosse Pointe Park. I retain jurisdiction of this case until all issues are resolved.

A. Robert Stevenson, Aribtrator  Date 5/29/07  
I concur with the issue awarded  
Union Delegate, Thomas Griffin  Date 5-29-07  
I concur with the issue awarded  
Employer Delegate, Jeffrey A. Bremer  Date 5.29.07