

2246

STATE OF MICHIGAN

COMPULSORY ARBITRATION

In the Matter of:

DEWITT TOWNSHIP,
Employer,

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

Case No: LO7G-9001

-and-

POLICE OFFICERS LABOR COUNCIL
NON-SUPERVISORY UNIT
Union,

PARTIAL AWARD OPINION

Date of Decision: June 13, 2008

PANEL

A. Robert Stevenson, Arbitrator
Peter Cohl, Employee Delegate
Duane Smith, Union Delegate

APPEARANCES

John R. McGlinchey
Cohl, Stoker, Toskey & McGlinchey, P.C.
601 N. Capitol
Lansing, MI 48933

Brendan J. Canfield
Police Officers Labor Council
667 E. Big Beaver, Suite 207
Troy, MI 48083

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 Richard Weller, Director Labor Services, December 20, 2007 for all full time Patrolmen employed with the DeWitt Township Police Department, excluding the Chief of Police and all other employees.. There are 10 employees in the 312 group. I was appointed as Panel Chairperson on February 15, 2008.

An Initial Prehearing Conference was held on March 19, 2008 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 April 7, 2008.

COMPARABLES

The parties have selected the following comparables:

The Parties agree three comparable communities:

Huron Township
Mundy Township
St. Joseph Township

The Union asserts:

Davison Township
Lansing Township

The Employer asserts:

Fruitport Township
Hampton Township
Thomas Township

The Employer's asserts that its proposed comparables are within a 25 percent criteria in both population and taxable value of DeWitt Township. The Unions proposed comparables are based on a prior Act 312 award by Arbitrator Groty decided in January 21, 2001, including Davison Township, Huron Township, Mundy Township, Lansing Township and St. Joseph Township. The Employer is proposing a compromise of 6 comparables, three from the Union and three from the Employer within the 25 percent criteria(see Employer Ex.5).

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 Parties seem to agree that the comparables presented have similar police duties and the size of departments are similar. These police departments have a similar number of calls and none of the comparables are public safety departments. (Hearing Transcript pg. 42 and 43). In addition, all suggested comparables are Townships that have similar units of government.

The Union's position is that in Arbitrator Groty decision he selected five comparable communities during the 2001 Act 312 Hearing. On page 2 of the decision it states that,

“Both parties to the present dispute have proposed the following three (3) townships; Davison, Huron and Mundy.” The Union offered Lansing Township and the Employer offered St. Joseph which was accepted by the Arbitrator (Union Ex.2).

According to Research analyst Nancy Ciccone the parties utilized a +/- differential of 40% for the 5 communities. She testified that little has changed since that decision and each community is within 43% +/- differential of DeWitt Township (Hearing Transcript p.17). Ms. Ciccone further testified that if 2006 population estimates were used instead of the 2000 census Hampton above (34%) and St Joseph Township below(33%) would not meet the Employer’s 25% criteria (Hearing Transcript p.19) .

The Employer’s position on compatibility is that it uses the closest number percentage of both population and taxable value to get a representative sampling or number.(Hearing Transcript pg.29) The Employer in examining Act 312 awards found that two criteria predominated, population and taxable value.(Employers’ Post Hearing Brief, p.3) Population was consistently used to provide an indicator of demand for governmental services. Taxable value was said to offer a good view of community’s overall economic value and of the base upon which taxes, the primary source of a county’s income, are applied.

The Employer’s position is that, if the 2000 census were used with the 25% criteria, 6 communities would qualify. Chris Broughan who prepared the Employer Exhibit 5, testified for the Employer that the 25% criteria includes the following comparables:

Fruitport
Hampton
Huron
Mundy
St. Joseph
Thomas

Huron, Mundy and St. Joseph were found in the Groty decision in 2001 and Thomas, Hampton and Fruitport are being suggested by the Employer.

. The present Arbitrator puts great weight on the fact that subsequent contract negotiations between the parties since 2001 have resulted in reaching Labor agreements using the same comparables until the present time. And Nancy Ciccone's testimony has established that there has not been significant change in the population or taxable value since that time (Hearing Transcript pg.19). Therefore I would retain the 5 comparables found in the Groty decision.

The Employer and the Union are in agreement on three of the comparables found in the Groty decision

Huron
Mundy
St. Joseph

The Employer is asking that three additional comparables be added:

Fruitport
Hampton
Thomas

Under the Groty decision a criteria of +/- 40 % was used. All of the Employer's additional comparables would come within these criteria and should be included. It would be inappropriate to ignore all the data presented. The Groty comparables plus these additional comparables should provide the parties with ample data for comparison in support of their arguments concerning the substantive portions of their contract still in dispute.

All of the above proposed comparables have some rational to the DeWitt negotiation and I will take the list into consideration when I rule on the issues.

OPINION

The external comparable will be Huron, Mundy, St. Joseph, Davison, Lansing, Hampton, Thomas and Fruitport Township. I retain jurisdiction of this case until all issues are resolved.

A. Robert Stevenson, Arbitrator *S. Robert Stevenson* Date 6/13/08

I concur with the issue awarded

Union Delegate, Duane Smith _____ Date _____

I concur with the issue awarded

Employer Delegate, Peter Cohl _____ Date _____

OPINION

The external comparable will be Huron, Mundy, St. Joseph, Davison, Lansing, Hampton, Thomas and Fruitport Township. I retain jurisdiction of this case until all issues are resolved.

A. Robert Stevenson, Arbitrator *A. Robert Stevenson* Date 6/13/08

I concur with the issue awarded

Union Delegate, Duane Smith *DS* Date 6/15/08

I concur with the issue awarded

Employer Delegate, Peter Cohl _____ Date _____

OPINION

The external comparable will be Huron, Mundy, St. Joseph, Davison, Lansing, Hampton, Thomas and Fruitport Township I retain jurisdiction of this case until all issues are resolved.

A. Robert Stevenson, Arbitrator *A. Robert Stevenson* Date 6/13/08

I concur with the issue awarded

Union Delegate, Duane Smith _____ Date _____

I ~~concur~~ ^{dissent} with the issue awarded

Employer Delegate, Peter Cohl *Peter Cohl* Date 6-18-08