

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD
CASE NO. IA82-14; M82-237

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
RECEIVED

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CONCILIATION

: In the Matter of the Compulsory :
: Interest Arbitration :
:

- between - :
:

BUFFALO PROFESSIONAL FIREFIGHTERS :
ASSOCIATION, LOCAL #282 IAFF, AFL-CIO :
:

- and - :
:

CITY OF BUFFALO :
:-----
:

OPINION AND AWARD

OF
PUBLIC
ARBITRATION
PANEL

Before:

George S. Roukis
Chairman and Impartial Member

Richard Planavsky
City of Buffalo Panel Member

Samuel A. Christopher
Buffalo Professional Firefighters Association Panel Member

Appearances:

FOR THE BUFFALO PROFESSIONAL FIREFIGHTERS ASSOCIATION
LOCAL #282 IAFF, AFL-CIO

Lipsitz, Green, Fahringer, Roll, Schuller & James
by Carmin R. Putrino, Esq.
Edward Fennell, Municipal Financial Consultant

FOR THE CITY OF BUFFALO

Samuel F. Iraci, Jr., Director, Division of Labor Relations
Dr. Charles W. DeSeve, President, DeSeve Economic Association
Leslie Schmarder, City Budget Director
Fred D. Langdon, Commissioner, Fire Department

Pursuant to the statutory provisions applicable to Compulsory Interest Arbitration under Section 209.4 of the New York State Civil Service Law, as amended, the undersigned Public Arbitration Panel was appointed on September 8, 1982 to hear and decide the contract negotiations dispute between the Buffalo Professional Firefighters Association, Local #282, IAFF, AFL-CIO, and the City of Buffalo, hereinafter referred to as the Union and the City respectively.¹ Accordingly, hearings were held on November 8 and 15, 1982 in Buffalo, New York, at which time the parties were afforded ample opportunity to present testimony and evidence germane to their positions. In addition, the Panel met in Executive Session, on December 20, 1982 to discuss its views and findings on the impasse issues. A transcript of the proceedings was recorded which was forwarded to the panel members.

¹These provisions are verbatimly referenced hereinafter. "Statutory Provisions Applicable to Compulsory Interest Arbitration Pursuant to Civil Service Law, Section 209.4 (As amended July 1, 1977)"

(iii) the public arbitration panel shall hold hearings on all matters related to the dispute. The parties may be heard either in person, by counsel, or by other representatives, as they may respectively designate. The parties may present, wither orally or in writing, or both, statements of fact, supporting witnesses and other evidence, and argument of their respective positions with respect to each case. The panel shall have authority to require the production of such additional evidence, either oral or written as it may desire from the parties and shall provide at the request of either party that a full and complete record be kept of any such hearings, the cost of such record to be shared equally by the parties;

(iv) all matters presented to the public arbitration panel for its determination shall be decided by a majority vote of the members of the panel. The panel, prior to a vote on any issue in dispute before it, shall, upon the joint request of its two members representing the public employer and the employee organization respectively, refer the issues back to the parties for further negotiations;

(Footnote #1 continued)

(v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

a. 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 or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;

b. the interests and welfare of the public and financial ability of the public employer to pay;

c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;

d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

(vi) the determination of the public arbitration panel shall be final and binding upon the parties for the period prescribed by the panel, but in no event shall such period exceed two years from the termination date of any previous collective bargaining agreement or if there is no previous collective bargaining agreement then for a period not to exceed two years from the date of determination by the panel. Such determination shall not be subject to the approval of any local legislative body or other municipal authority.

(vii) the determination of the public arbitration panel shall be subject to review by a court of competent jurisdiction in the manner prescribed by law.

BACKGROUND

The parties began negotiations leading to a successor agreement in March, 1982. The expired 1980-1982 Agreement was predicated upon an interest arbitration Award issued by the Public Member on March 30, 1981. Negotiations for the new Agreement were held on March 22, April 21 and 28, May 24 and 25 and June 9, 14 and 21, but the parties were unable to reach a settlement. They met with a state mediator on two subsequent occasions without avail and the Union filed a petition for compulsory arbitration on July 13, 1982. The Union which was recognized as the negotiating unit since the 1967 enactment of the New York State Public Employment Relations Act, presently comprises approximately 957 employees. In 1975, the parties had utilized binding arbitration to finality following the 1974 amendments to the N.Y.S. Public Employment Relations Act and again in 1977 and 1980 respectively.²

In the instant dispute, the following negotiating proposals were presented to the Panel:

UNION'S PROPOSALS³

1. Annual Salary Increase

Delete 3.1 (A) and change to read: "As of July 1, 1982, to and including June 30, 1985, the City agrees to pay all employees represented by the Union a salary increase as follows: 10% in the first year, 12% in the second year. The adjusted salaries shall include the value of fourteen (14) paid holidays at the rate of time and one-half"

²For purposes of illustration, the Union received the following salary increases during the 1977-1982 period:

1977 - 5% increase	1980 - 7% increase
1978 - 4%	1981 - 6.8%
1979 - 4%	

³See Union Exhibit #3.

2. Paid Lunch

In 3.1 (B), delete the words, "Twenty (20) minute" and add the words, "thirty (30) minutes at time and one-half."

3. Local President Salary Level

Add to 3.1 (E) new sentence to read: "President of Local 282 shall receive salary equivalent to that of the highest rank in the bargaining unit"

4. Longevity

In 4.1 change Column I and Column II to read:

<u>Column I</u>	<u>Column II</u>
1 - 2 Yrs.	\$ 0
3	50.00
4	100.00
6	150.00
8	200.00
10	250.00
12	350.00
14	450.00
16	550.00
18	650.00
20	750.00
22	850.00
24	950.00
25 + over	1000.00

5. Dental Plan

Delete 6.2 Add new 6.2 to read: "Effective July 1, 1982, all employees covered by this bargaining unit shall receive the G.H.I. (Group Health Incorporated) dental plan known as 'Type N', at not cost to the employee."

Type N; No deductible; 100% of Schedule for Preventive and Diagnostic, Full Basic, and Orthodontia; 80% of Schedule for Prosthetics; Dependent Students covered to age 25 for all benefits, except Orthodontia, which is to age 19.

6. Uniform Allowance

In Article VII, paragraph 1, delete the words "\$300"; add the words "\$500."

Also, in Article VII, paragraph 1, delete the words "\$150" add the words "\$250."

CITY'S PROPOSALS⁴

1. Hospital and Medical Insurance

A) Active Employees

The City of Buffalo will provide hospital and medical insurance coverage for all full-time employees of the City of Buffalo, as defined in Article 1.3 Section b of this Agreement.

B) Eligibility and Conditions

Permanent employees shall receive coverage on the first day of the month following thirty days of employment.

Provisional and temporary employees are covered on the first day of the month following six months of employment.

Employees returning from a leave of absence will be covered effective the first day of the month following their return to active City service.

Employees retiring, resigning, quitting or terminating their employment with the City, for any reason, will continue to be covered under their medical insurance plan until the last day of the month in which such termination takes place. This language also applies to employees taking unpaid leaves of absence, and absences without leave.

C) Medical Insurance Plans

The City of Buffalo will provide one of the following hospital and medical insurance plans, as determined by the employee.

Blue Cross 4/6 and Blue Shield 50/51 and the following riders:

Drug Prescription Rider - \$3.00 co-pay

Major Medical \$1,000,000 coverage, \$100 deductible

Rider #8 - dependents to age 23

At the option of the employee, he is entitled to coverage through a Health Maintenance Organization (Independent Health or Health Care Plan, Inc.) in lieu of the BlueCross/Shield plan previously outlined. Cost of the HMO coverage, above the Blue Cross/Blue Shield monthly premium, shall be borne by the employee through payroll deductions.

Coverage for Retirees

A) The City will provide hospitalization and medical insurance to qualified employees who retire under the New York State Employees' Retirement System. In order to qualify for the benefits set forth in this section, employees must meet both of the following conditions:

1) The employees must be at least age 55, unless granted a disability retirement, and must retire directly into or under the New York State Employees' Retirement System from active, full time employment with the City and receive a pension therefrom, and be eligible for benefits from the New York State Retirement System, and

2) The employee must have served a minimum of five (5) consecutive years of active, full-time employment with the City immediately preceding retirement into or under the New York

⁴See City's Exhibit #3.

State Employees' Retirement System. The term "consecutive" shall not apply to persons who have a break in service due to any leave granted under the terms of this Agreement or to any employee who is laid off and recalled pursuant to Sections 80 and 81 of the Civil Service Law. However, such employees must actually work a minimum of five (5) years for the City, including at least one (1) year immediately prior to retirement. The required minimum period of time set forth in this paragraph will be waived in the event the employee is granted and receives a New York State Employees's Retirement accidental disability retirement.

B) Qualified employees, as defined in subdivision A of this section, who retire on or after July 1, 1982 shall receive family or single hospitalization and medical insurance benefits, and at the contribution levels, all as set forth for full-time employees in Section 1 of this Article.

C) Notwithstanding any provision of this section, the City shall not be liable for providing hospitalization and medical insurance benefits, or any portion of the cost thereof, to retirees eligible for hospitalization and medical insurance benefits available from a source other than the City of Buffalo.

Medical Insurance Plans

The City of Buffalo will provide one of the following hospital and medical insurance plans:

Blue Cross 4/6 and Blue Shield 50/51 and the following riders:
Drug Prescription Rider - \$3.00 co-pay
Major Medical \$1,000,000 coverage, \$100 deductible

Duplicate Medical Insurance Coverage

The City is not required to provide hospital and medical insurance coverage for any employee or retiree who has similar medical insurance coverage elsewhere or whose spouse has similar medical insurance coverage. Determination of what constitutes similar coverage will be made by the City of Buffalo Insurance Advisory Committee, in consultation with the Union. However, should the spouse's coverage be terminated for any reason, the employee or retiree may immediately transfer his coverage to the City and receive full coverage to which he is entitled as a City employee or retiree. Any expense or loss of benefits incurred by the employee or retiree as the result of the transfer of coverage to the City shall be reimbursed by the City to the extent that the employee or retiree would have been covered by the City's coverage, provided that the loss of benefits did not result from a failure by the employee to notify the City in a timely fashion of his change in status.

The above provisions apply identically to the dental coverage provided for employees by the City.

2. Family Policy Contribution Rate

In 6.1, add a new paragraph to read: "The City contribution rate for family policy shall have a ceiling of \$1267.20 per year,

and for a single policy, a ceiling of \$471.00 per year. Increases in future premiums over those stated above will be absorbed by the employee on a payroll deduction basis; or benefits will be reduced at a corresponding level."

3. Dental Coverage

In 6.2 add the following: "The City agrees to provide comparable dental coverage. However, carrier selection shall be considered the City's management prerogative."

4. Uniform Allowances

Delete entire Article VII, and replace with the following: "A total annual uniform allowance of \$300 (\$25 per credited month) shall be paid by the City based on actual months of service in a benefit period prior to payment. Payment periods will be on or about September 15 and May 15 respectively of each calendar year. The employee shall be responsible for the purchase, maintenance, and replacement of all items of clothing.

Actual months of service for the purpose of this Article shall be defined as a calendar month in which an employee is compensated for all but two working days in that month. Time compensated for under provisions of Section 207-a of the General Municipal Law shall not be counted as eligible days for uniform allowance. Only those employees required to wear a uniform as part of their normal daily duties shall receive the uniform allowance.

Employees on paid or unpaid leaves of absence, and who are not on the active payroll on September 15 and/or May 15 will not be entitled to pro-rated uniform allowance."

5. Compensation for Unused Vacation Leave

Add to Article VIII a new section to read: "Any employee who is laid off, retires, or separates from the service of the City for any reason (save for cause), shall be compensated in cash for the monetary value of his unused vacation time earned in the prior calendar year at the time of his separation from service. In case of an employee's death in service, payment shall be made to his beneficiaries or estate".

6. Leave of Absence for President of Local 282

In Article 14.1, add a new section to read: "The City will grant a leave of absence without pay to an employee elected as President of Local 282. Such leave shall be for the President's term(s) of office. An employee elected as President shall be required to apply for such leave of absence."

7. Deletion of Maintenance of Benefits Provision - Article XXVII

Delete Article XXVII, "Maintenance of Benefits" provision from Agreement.

MEMORANDUM OF AGREEMENT, DATED, JANUARY 27, 1983

The Panel takes judicial notice of this Agreement, which is verbatimly referenced hereinafter. It is incorporated as part of this Award.⁵

In order to establish a successor agreement between the City of Buffalo and the Buffalo Professional Firefighters Association, Inc., Local 282, IAFF, AFL-CIO, for the contract period July 1, 1982 through June 30, 1984, the parties agree to adopt the existing agreement between the parties, except for the following modifications:

1. Add the following to Article VI, Section 6.1 to read as follows:

"The Union agrees the City may seek bids for alternate prescription drug coverage. All bid specifications will be submitted to the Union for its approval, prior to publication. Upon receipt of the bids and notice to the Union, the City may select alternate prescription drug coverage, subject to the Union's further prior approval of such prescription drug program coverage."

2. Article VI, Section 6.1 shall be further amended by adding the following:

Section 6.1(a) Duplication of Coverage

"Any employee, represented by the Union, entitled to Blue Cross/Blue Shield family coverage, as provided above, may elect to waive such coverage if his spouse has Blue Cross/Blue Shield coverage. Employees waiving coverage may be required to show proof of spouse's coverage to the City and to the Union. An employee who desires to waive such Blue Cross/Blue Shield coverage shall notify the City and the Union, in writing, and such waiver of coverage shall be effective on the first day of the month following thirty days after the date of receipt of such notification to the City. All employees waiving coverage will receive the sum of \$40.00 per month to be paid by separate check, without withholding or deduction on September 15, December 15, March 15 and June 15 of each year.

⁵The parties had requested the Chairman of the Panel to incorporate the January 27, 1983 Memorandum of Agreement as part of this Award.

Should the spouse's coverage be terminated for any reason, the employee will immediately notify the City. Upon such notification, the City shall transfer the employee to the Blue Cross/Blue Shield plan provided herein, and the employee will be provided full family coverage without any preconditions or lapse in coverage.

An employee who has waived his or her Blue Cross/Blue Shield coverage and who desires to be reinstated to such Blue Cross/Blue Shield coverage as provided in Section 6.1 shall notify the City and the Union, in writing. Such coverage shall be reinstated on the first day of the month following thirty days after the date of receipt of such notification by the City."

3. Article VI, Section 6.2 shall be amended to read as follows:

"The Union agrees the City may seek bids for alternate dental coverage. All bid specifications will be submitted to the Union for its approval prior to publication. Upon receipt of the bids and notice to the Union, the City may select alternate dental coverage, subject to the Union's further prior approval of such dental coverage."

4. Article XII, Section 12.1 shall be amended to read as follows:

"Effective July 1, 1982, all full-time employees hired before March 30, 1981, shall be entitled to personal leave time with pay during each fiscal year in the amount provided below:

- A) Three (3) day shifts of nine (9) hours each and two (2) night shifts of fifteen (15) hours each, or;
- B) One (1) day shift of nine (9) hours and three (3) night shifts of fifteen (15) hours each.

Effective February 1, 1983 all employees hired after March 30, 1981 shall be entitled to personal leave time with pay, as follows:

- A) In their first year of employment such employees shall receive one (1) day shift of nine (9) hours and one (1) night shift of fifteen (15) hours. This personal leave entitlement must be used prior to the employee's first anniversary date.
- B) Following their first anniversary and during their second year of employment, such employee shall receive two (2) day shifts of nine (9) hours each and two (2) night shifts of fifteen (15) hours each. This personal leave entitlement must be used prior to the employee's second anniversary.
- C) Thereafter said employee shall receive the full complement of personal leave provided for employees hired prior to March 30, 1981. Said employees must use this personal leave entitlement prior to their next succeeding anniversary date.

Personal leave shall be non-cumulative beyond the fiscal year and/or anniversary date. Personal leave may not be taken in units of less than one (1) shift, except for members attending an educational course in a field consistent with the work assignment of the employee, and approved by the Commissioner. Under these circumstances, a member may elect to take personal leave units of one-half ($\frac{1}{2}$) night shift or seven and one-half ($7\frac{1}{2}$) hours."

5. Article XIV shall be amended by adding the following as new Section 14.3:

"AWOL"

Any member absent without leave, for more than twenty (20) working days may have his employment terminated by the Department Head without a hearing. Such termination shall be final without recourse to the disciplinary procedures contained in the collective agreement. Upon such termination the City will provide the employee with all benefits which he has previously earned.

6. All proposals previously agreed to by the parties, including those set forth below shall be incorporated into and become a part of the collective agreement:

City proposal #10, Union proposal #49, Union proposal #67, Union proposal #68, City proposal #13, City proposal #36, the merged proposal including Union proposals #15, #16 and #18, with City proposal #8, City counterproposal amending Section 8.7 (a), counter-proposals amending Section 16.4(d) and City counter-proposal to Union #55.

7. Article XV shall be amended by adding new Section 15.6 as follows:

"Effective January 1, 1983 any employee presently in a retirement plan other than the Career Retirement Plan, set out in Section 375-i of the Retirement & Social Security Law (the 375-i plan) may transfer to the 375-i plan during the period from February 15 to March 15 of any calendar year. Any employee who so elects to transfer to the 375-i plan shall receive a salary adjustment based upon the Employer's cost for coverage of said employee in the retirement plan from which he transferred and the 375-i plan. This salary adjustment shall be paid in a lump sum on December 15, commencing with the year in which the employee exercised his option, and each year thereafter. The initial salary adjustment will be based upon the Employer's cost savings for a full twelve month period ending on March 31st of the year in which the employee elected to transfer to 375-i. In each year thereafter, the salary adjustment will be based upon the Employer's cost savings for the full twelve month period ending on March 31 of the calendar year of payment."

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS

IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

IN WITNESS WHEREOF, the parties have set their hands this 27th day of January, 1983

Signed by:

Samuel A. Christopher, President, Local 282, Buffalo Professional Firefighters Assn., Inc.

and

Samuel F. Iraci, Jr., Director, Division of Labor Relations, City of Buffalo

ARBITRATION PANEL'S OPINION AND AWARD

A just determination of this dispute hinges on a thoughtful and objective application of the statutory settlement criteria governing municipal protective services. During the long and complicated hearings on November 8 and 15, 1982, the parties submitted to the Panel detailed financial and economic data to substantiate the efficacy of their respective negotiating positions. Essentially, what this Panel is confronted with is a painstaking analysis of the relevancy of these arguments and the supporting rationale.

Close examination of the City's fiscal posture during the past decade shows that it experienced financial problems during the mid 1970's. The General Fund, for example, opened the 1976-1977 fiscal year with a deficit of \$34,434,000.00. Because the City is strongly dependent upon New York State revenue

assistance, it was compelled, of necessity, to manage its programs more effectively. Its fiscal posture has since improved but it must manifest strict budgetary prudence. For fiscal year 1982-1983, the General Fund opened with a reported surplus of \$3,232,000.00. It also showed an \$8,549,000.00 surplus in fiscal year 1981-1982. But this noticeable turnaround is contingent upon scrupulous budget management.

By way of comparison, the City has not fared as well as Erie County. The County had continued to grow during the past three decades, while the City of Buffalo has economically declined. Presently, the City's unemployment rate hovers about 15% and the recent plant closings, including the Bethlehem Steel Corporation, has added to the area's structural economic woes. Personal income is below that of many other Standard Metropolitan Statistical Areas (SMSA) in New York State and the City contains a significant low income population. Moreover, when it is compared with other S.M.S.A.s, its economic growth rate is slower. Despite revenue from the property tax, sales tax, water use assessments, federal and state aid and borrowing, the City is still apprehensive that state aid might be decreased. It argues that a one (1%) percent reduction in state aid could require a three and one fourth (3 $\frac{1}{4}$ %) percent increase in the property tax. For the fiscal year 1982-1983, the state aid level of the City's proposed \$338,500,000.00 budget amounted to \$160,800,000.00. The present budget is 6.4% higher than the 1981-1982 budget.

In developing the current budget, the budget revenue used

for fiscal year 1982-1983 was 2.8 million dollars higher than the budget revenue for 1981-1982, which reflected, in part, the loss of 123 municipal positions. The City avers that the savings realized in last year's budget will not be achieved this year and cautioned that if the City was eventually required to go to regular equalization rates rather than the present special equalization rates because of tax assessment reevaluation, it would mean less revenue intake. There is no indication at this time, however, that this will occur. The City noted the potential impact of the Hurd decision which requires the Common Council to make available to the Board of Education, an additional \$7,400,000.00 and the \$1,000,000.00 payment to the Central Buffalo Project.⁶ The Hurd decision, of course, is a realistic contingency.

The economic recession has affected the collection of sales tax revenues and parking fine collections have decreased, but notwithstanding these downside effects, the City has managed to present a balanced budget for the present fiscal year.⁷ As we indicated previously, the City has introduced good management techniques and cost controls, which along with departmental reorganizations and staff retrenchment, have streamlined municipal operations. Since 1978, the workforce has decreased by 12.5%.

⁶See United States District Court
Western District of New York CIV-1972-325C
George Arthur, et al, Plaintiffs
vs.
Edward P. Nyquist, et al, Defendants
Decision issued on August 27, 1982

⁷State and Federal Aid make up approximately 49% of the City's budget with the bulk of this amount coming from the State (96.8 % of the total)

The City is permitted by the New York State Constitution to levy ad valorem real property taxes up to 2% ~~of~~ five years average full valuation for general government services other than for payment of debt service and in unlimited amounts for payment of debt service. Presently the rate is \$87.00 per thousand. In 1981, the City's maximum tax power was \$96,631,405.00, while its real estate levy was \$86,936,651.00. This left a tax levy margin of \$9,694,754.00. While the City has not exhausted its capacity to increase property taxes, consistent with its permissible constitutional limits, it is close to its allowable tax margin. It did appropriate \$1,500,000.00 for all employees in fiscal year 1982-1983 for salary purposes, which amounts to slightly less than a two percent increase and to its credit, particularly its ability to manage effectively scarce factor resources, it has begun the 1982-1983 fiscal year with a surplus of \$3,232,000.00. From all these accounts, this Panel finds that the City can afford to underwrite a modest though restrained salary and benefit enhancement collective agreement, but not near the magnitude of other municipal and State of New York settlements.

In comparing the Buffalo firefighters maximum salary level without longevity with such intrastate municipalities as New York City, Rochester, Yonkers, Albany and Syracuse, we find that the firefighter here earns less than his professional counterpart in those jurisdictions. For example, a firefighter in Rochester in 1982 earned \$23,506.00, while a firefighter in Syracuse earned \$20,712.00. An Albany firefighter whose salary

includes the cash value of twenty minutes paid mealtime earned \$20,000.00 in comparison with \$18,272.00 for a Buffalo firefighter. The latter amount excludes the cash value of holiday premium pay, but includes the cash value of twenty minutes paid mealtime. We will not include in our comparability analysis the higher maximum salary in New York City, since it is not a relevant settlement criterion. The upstate benchmarks are more pertinent and historically valid. (See Union Exhibit #18) It is apparent that Buffalo lags behind these other localities.

Moreover, when we compare the firefighter's aggregate salary level with the United States Department of Labor's Bureau of Labor Statistics (BLS) estimates for what is needed by an urban family in Buffalo, New York, we find that it amounts to 69% of an estimated urban budget. We recognize, however, that this comparison must be judicially tempered by the similar asymmetrical relationships of other Buffalo public employees, but it basically indicates a lag relationship. (See Union Exhibit #14)

The Union argues that over the last ten years, a Buffalo firefighter has been able to increase his weekly salary before taxes by only \$147.00 for an effective 72% increase, while the Consumer Price Index has increased by 138.7%.⁸ In effect, it contends that it suffered a significant diminution in real income. (See Union Exhibit #9) The City does not per se contest these averments but it strongly argues that its constrained fiscal status does not permit comparability catch-ups.

⁸The Consumer Price Index for 8/82 registered at 126.8, with the 1967 base year being at 100. In 8/82 it stood at 265.5 or a difference of 138.7.

We concur with the City on this point. The salary percentage increases proposed by the Union, namely ten (10%) percent and twelve (12%) percent respectively in 1982 and 1983 are excessive and without supportive justification. The City's implicit offer of about two (2%) percent is also without merit. Since we do not have an explicit delineation of all the detailed firefighters salary and benefit settlements in the upper and western tier of New York State that would unmistakably indicate a persuasive compensatory trend or any public employment settlement within the City of Buffalo that would provide a compelling example of an intracity salary pattern, we feel that a salary increase of five (5%) percent across the board for all employees represented by the Union for 1982-1983 is justified. It falls far short of what the Union requested, but it comports with the fiscal realities of the City. In relation to the comparables cited by the Union, the five (5%) percent increase would maintain the Buffalo firefighters positional relationship.⁹ (See Schedule A annexed to this Award)

For the year 1983-1984, the Panel awards a salary increase of four (4%) percent across the board for each employee in the negotiating unit. This increase approximates the projected cost of living for 1983-1984 and reflects a studied awareness of the City's disquieting economic problems.¹⁰ (See Schedule A-1 Annexed to this Award) We are mindful that the State of New

⁹The salary increase is retroactive to July 1, 1982 and to and including June 30, 1983.

¹⁰The salaries shall include the value of 12 paid holidays at the rate of time and one half.

York recently consummated a three year agreement with its employees which provides for a nine (9%) percent salary increase in each of the three years, but this settlement is not relevant for comparison purposes. The same is true with regard to the City's private sector comparables which show an average national salary settlement pattern of approximately 2.8% for all industries. In many of these settlement, Cost of Living Adjustment (COLA) provisions are present, which is not the case in this instance and the final salary increases are much higher. The mosaic of firefighter settlements in upper New York State on average show an average higher compensatory pattern than what this Panel is awarding, which underscores our public interest concern. In addition, since we have awarded a salary increase which on balance is less than the emerging settlement trend for the upper New York State region, we will award the employees represented by this unit a bonus on the following days, which will be paid by separate check. The bonus funds will not be added to the firefighters salary schedule. The bonus amount and the days on which it is to be paid are as follows:

May 15, 1983	-	\$250.00 Bonus
July 1, 1983	-	\$200.00 Bonus
September 15, 1983	-	\$100.00 Bonus
May 15, 1984	-	\$100.00 Bonus

With respect to the Union's proposal for a paid lunch at time and one half for thirty minutes, we believe that the cash equivalent of a forty (40) minute lunch period for each day actually worked is pragmatically more equitable. Presently, the firefighter receives the cash value of twenty (20) minutes

at time and one half or the net value of thirty (30) minutes straight time. The Buffalo police officer receives the equivalent of forty five (45) minutes pay at straight time for wash up or clean up time. City employees in other bargaining units are provided with paid lunches of one hour. Since the police and city employees are enjoying a differentiated benefit advantage in this area, we feel that an adjustment is in order. We will not award the time formula proposed by the Association, but we will award the cash equivalent of a forty (40) minute lunch period for each day actually worked. This exemplifies a more realistic resolution of the City's intra unit paid lunch practices.

Correlatively, we have carefully reviewed the City's proposals for modifying the present hospital and medical benefit coverage, but find no justification for awarding such changes. There are no indications of abuse or cost difficulties that would demand remediation. We do find justification for upgrading the benefit levels in view of our modest salary award and our rejection of the Union's other proposals for improvements in longevity payments, uniform allowances and paid salary for the local union President.¹¹ After examining the available cost-benefit options at our executive session on December 20, 1982, we are confident that the following changes in medical coverage will prove most effective. Accordingly, Article VI Section 6.1

¹¹In a similar vein we have rejected the City's proposal to delete Article XXVII "Maintenance of Benefits" and to change the present uniform allowances. We have no indication that Article XXVII was burdensome to the City or that the present uniform allowances were unduly costly.

shall be amended to read as follows:

"The City will provide hospital and medical coverage for all employees and future retirees under the Blue Cross/Blue Shield Plan generally known as 82-83 at no cost to the employee."

Effective January 1, 1983, the City will provide for all employees the following Blue Cross/Blue Shield benefit riders at no cost to the employees:

MMER - \$1,000,000

MMER 82-83 (deductible \$50.00)

Rider 8

Prescription Drug Rider

Rider 8

Blue Cross Rider 8

Dependents to Age 23

Blue Shield Rider 4

Emergency O.P. EKG 82-83

Blue Shield Rider 8

Dependents to Age 23 82-83

In addition, the City will provide the Blue Cross prescription drug \$3.00 co-pay prescription plan for all employees, at no cost to the employee.

Since the record further shows that within the life of the predecessor collective agreement that the dental insurance carrier, Group Health Incorporated (GHI) rebated monies to the City because of the group's dental utilization experience, we find plausible justification for increasing the dental benefit. The parties had jointly worked out an accommodation that

satisfactorily addressed the City's dental negotiating proposal and the changes awarded here complement that arrangement. (See Memorandum of Agreement, dated, January 27, 1983) Pursuant to Article VI, Section 6-2, the City provided the negotiating unit employees with the type L dental plan. This plan was first incorporated in the 1977 collective agreement and continued unmodified in the 1980 agreement. There is evidence that numerous dental providers in the Buffalo area are unwilling to accept the L plan and it also provides limited services. Inasmuch as the City has realized saving on this plan and the total settlement awarded herein is pointedly fair, we will upgrade the present dental program. We find the Union's proposal for the type N coverage to be too costly, but we find the type M-1 plan together with the appropriate rider providing prosthetics at 100% of schedule, with no deductible amount, and at no cost to the employee to be more reasonable.

In sum and substance, the Panel is persuaded that the salary and benefit improvements awarded herein are well within the City's fiscal constraints and consistent with the public interest. In comparison with the salary increases afforded firefighters in other upstate comparable jurisdictions over the past five years, the instant award is indeed modest and responsible.

AWARD

1. Article III, Section 3.1(A) shall be amended to read as follows:

"Retro-active to July 1, 1982 and to and including June 30, 1983, the City agrees to pay all employees represented by the Union a salary increase of five (5%) per cent reflected in Schedule A annexed to this agreement. Effective July 1, 1983 and to and including June 30, 1984, the City agrees to pay all employees represented by the Union a salary increase of four (4%) per cent as reflected in Schedule A-1 annexed to this agreement. The salaries in Schedule A and in A-1 include the value of twelve (12) paid holidays at the rate of time and one-half."

2. Section 3.1(A) shall be amended by adding the following:

"The City agrees to pay all employees represented by the Union bonuses on the dates and in the respective amounts as follows:

On May 15, 1983	-----	a bonus of \$250.00
On July 1, 1983	-----	a bonus of \$200.00
On September 15, 1983	-----	a bonus of \$100.00
On May 15, 1984	-----	a bonus of \$100.00

The bonuses specified above will be paid by separate check, payable to the employees on or before the date specified."

3. Article III, Section 3.1(B) shall be amended to read as follows:

"Effective July 1, 1982 the City will pay each employee the cash equivalent of a forty (40) minute lunch period for each day actually worked."

4. Article VI, Section 6.1 shall be amended to read as follows:

"The City will provide hospital and medical coverage for all employees and future retirees under the Blue Cross/Blue Shield plan generally known as 82-83 at no cost to the employee.

Effective January 1, 1983, the City will provide for all employees the following Blue Cross/Blue Shield benefit riders

at no cost to the employees:

MMER - \$1,000,000.00
MMER 82-83 (deductible \$50.00)
Rider 8
Prescription Drug Rider as provided below
Rider 8
Blue Cross Rider 8
Dependents to Age 23
Blue Shield Rider 4
Emergency O.P. EKG 82-83
Blue Shield Rider 8
Dependents to Age 23 82-83

The City will provide the Blue Cross prescription drug \$3.00 co-pay prescription plan, for all employees, at no cost to the employee."

5. Article VI, Section 6.2 shall be amended to read as follows:

"Effective January 1, 1983 all employees represented by the Union shall be provided the Group Health Incorporated Dental Plan known as Type M-1, together with the appropriate rider providing prosthetics at 100% of schedule, with no deductible amount, at no cost to the employee."

6. All proposals previously agreed by the parties and incorporated in a separate memorandum of agreement dated January 27, 1983 will also become a part of the collective agreement.

Respectfully submitted,

George S. Roukis

George S. Roukis, Chairman and Impartial Member

On the 2nd day of February, 1983, before me personally came and appeared George S. Roukis, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he duly acknowledged that he executed the same.

MARIA J. MORRIS
Notary Public, State of New York
No. 904672617
Qualified in Nassau County
Commission Expires March 30, 1984

Maria J. Morris

Richard Planavsky

I concur ()
I dissent (✓)

Richard Planavsky, City of Buffalo Panel Member

On the 3rd day of February, 1983, before me personally came and appeared Richard Planavsky, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he duly acknowledged that he executed the same.

CAROLINE A. SCORR
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires March 30, 1983

Caroline A. Scorr

Samuel Christopher

I concur (X)
I dissent ()

Samuel Christopher
Buffalo Professional Firefighters Association
Panel Member

On the 3rd day of February, 1983, before me personally came and appeared Samuel Christopher, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he duly acknowledged that he executed the same.

Caroline A. Scorr
CAROLINE A. SCORR
NOTARY PUBLIC STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires March 30, 1983

SALARY SCHEDULE "A"
 July 1, 1982 - June 30, 1983

Division Fire Chiefs-----	\$29,171
Battalion Chiefs-----	26,455
Chief of Communications-----	26,455
Superintendent of Fire Apparatus-----	26,455
Superintendent of Fire Alarm Systems-----	26,455
Chief Fire Administrator-----	24,167
Fire Captains-----	24,167
Master of Fire Boat-----	24,167
Assistant Superintendent of Fire Alarm System-----	24,167
Fire Lieutenants-----	23,013
Fire Alarm Dispatcher-----	23,013
Marine Engineer-----	23,013
Assistant Marine Engineer-----	21,266
Assistant Fire Alarm Dispatchers-----	21,266
Firefighters-----	\$15,420 ----- \$17,523 ----- 19,628
Marine Oilers-----	15,420 ----- 17,523 ----- 19,628

Firefighters (hired on or after 4/1/81)	Step 1	\$14,318
	2	15,644
	3	16,972
	4	18,299
	5	19,628

Marine Oiler (hired on or after 4/1/81)	Step 1	\$14,318
	2	15,644
	3	16,972
	4	18,299
	5	19,628

SALARY SCHEDULE "A-1"

July 1, 1983 - June 30, 1984

Division Fire Chiefs-----	\$30,338
Battalion Chiefs-----	27,513
Chief of Communications-----	27,513
Superintendent of Fire Apparatus-----	27,513
Superintendent of Fire Alarm Systems-----	27,513
Chief Fire Administrator-----	25,134
Fire Captains-----	25,134
Master of Fire Boat-----	25,134
Assistant Superintendent of Fire Alarm System----	25,134
Fire Lieutenants-----	23,934
Marine Engineer-----	23,934
Assistant Marine Engineer-----	22,117
Fire Alarm Dispatcher-----	23,934
Assistant Fire Alarm Dispatchers-----	22,117
Firefighters----- \$16,037----- \$18,224-----	20,413
Marine Oilers----- 16,037----- 18,224-----	20,413

Firefighters

(hired on or after 4/1/81)	Step 1	\$14,891
	2	16,270
	3	17,651
	4	19,031
	5	20,413

Marine Oiler

(hired on or after 4/1/81)	Step 1	\$14,891
	2	16,270
	3	17,651
	4	19,031
	5	20,413

APPENDIX A

Exhibits Submitted By The Union

- U-1 Submission Agreement
- U-2 Taylor Law Provisions
- U-3 Union's Negotiating Proposals
- U-4 Distribution of Employees by Rank
- U-5 Distribution of Current Bargaining Unit Employees by date of hire as of 1982
- U-6 Union Losses by Attrition
- U-7 Current Gross Salaries including Cash Value of Time and One-Half
- U-8 Distribution of Employees by Rank and Current True Base Salary
- U-9 Decline in the Real Maximum Salary Without Longevity of Firefighters in Buffalo, 1972-1982
- U-10 CPI for Urban Wage Earners and Clerical Employees N.Y. N.Y. - Northeastern New Jersey
- U-11 CPI for Urban Wage Earners and Clerical Employees N.Y. N.Y. - Northeastern New Jersey - Monthly Rate of Change
- U-12 Major Inflation Components 1972-1981
- U-13 Urban Family Budget - Intermediate December, 1981 - Selected Cities
- U-14 Comparison of Firefighters Salaries in Cities Comparable to Buffalo for which there exists BLS Intermediate Urban Family Budgets
- U-15 Comparison of the Buffalo Firefighters' Maximum Salary with BLS Intermediate Urban Family Budget for Buffalo, 1970-1981
- U-16 Real Spendable Income of Buffalo Firefighters 1970-1982
- U-17 Police, Fire and Refuse Collection and Disposal Departments: Personnel, Compensation, and Expenditures
- U-18 Comparison of Firefighters Maximum Salaries Without Longevity in Buffalo and Five Other Cities in New York State with Population of 100,000 or more. 1972-1982
- U-19 Buffalo and Comparable Cities Differential in Maximum Salaries of Firefighters Without Longevity 1970-1982

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- U-20 Differential in Maximum Salaries of Firefighters Without Longevity - Buffalo and Five Other Cities in N.Y. State with Population of 100,000 or more 1970-1982
- U-21 Increases in Average Hourly Earnings- Selected Major Industries 1971-1982
- U-22 Increases in Average Hourly Earnings Selected Major Industries 1980-1982
- U-23 Buffalo Wage Survey March, 1982
- U-24 Buffalo Fire Department 1981 Annual
- U-25 Comparison of Workload of Buffalo Firefighters 1970-1981
- U-26 Longevity Payments to Firefighters in Comparable Cities 1981
- U-27 N.Y.S. PERB Arbitration Award #A81-132 (Dental Improvement) City of Buffalo and Buffalo Professional Firefighters Association Local 282 January 11, 1982
- U-28 Group Health Insurance Premium Rate Quotation 3/11/82
- U-29 City of Buffalo Inter-Departmental Correspondence April 20, 1982 vis Request for Data by Local #282. Paid Vouchers Dental Claims
- U-30 Brownies Uniform Company - Expenditure Breakdown of Clothing and Equipment for Buffalo Firefighters Sept., 1982
- U-31 Brownies Uniform Company Clothing Costs for Firefighters
- U-32 Memorandum re Protective Clothing - Commissioner Fred D. Langdon to all Members of the Department
- U-33 Uniform Allowance or Provisions of Comparable Cities 1981-1982
- U-34 Letter from City Comptroller Robert E. Whelan to Samuel F. Iraci, Director, Division of Labor Relations Apr., 1982
- U-35 New York State Professional Firefighters Association, Inc. Delineation of Fire Prevention Code by Geographical Location
- U-36 Pertinent Provisions of 1980-1982 Agreement (Buffalo Firefighters)
- U-37 Review of the Financial Operation and Condition of the City of Buffalo Prepared by Municipal Financial Consultant Edward J. Fennell. Nov. 8, 1982

APPENDIX B

Exhibits Submitted By City

- C-1 Profile of Local 282's Negotiating History 1974-1975
1975-1977, 1980-1982
- C-2 Salary Increases For the Different City Unions 1974-1982
- C-3 City's Negotiating Proposals Submitted to Arbitration 1982
- C-4 Total Average Compensation for Local 282's Benefits and
Salary
- C-5 Table 3/1 Police, Fire and Refuse Collection and Disposal
Department, Personnel, Salaries, and Expenditures for
Cities over 10,00 1981
- C-6 Agreement Between City of Buffalo, New York and Buffalo
Professional Firefighters Association, Inc. Local 282
IAFF AFL-CIO July 1, 1977 - June 30, 1980
- C-7 Medical Insurance Increase Since July 1, 1980
- C-8 Letter from Commissioner, Administration and Finance
and Director, Division of Labor Relations to the Common
Council, City of Buffalo, Dated October 27, 1982
RE: Drug Prescription Card Benefits for Elected and
Appointed Officials
- C-9 Monthly Invoice from Blue Cross and Blue Shield for
Medical Insurance Costs for Retirees
- C-10 Monthly Statement from Blue Cross and Blue Shield on the
Amount the City Pays For Local 282's current Employees.
- C-11 Medical Insurance Benefits - Cities in Which Employees
Pay a Portion of Current Medical Insurance Costs
Oct-Nov, 1982 Survey
- C-12 Health Insurance for Retirees Firefighters (Inter City
Comparison)
- C-13 Firefighters President Union Leave
- C-13(A) Uniform Allowance Pro-Ration Provisions
- C-14 Letter from Samuel A. Christopher to Mayor James D.
Griffin, Dated March 23, 1982
Re: Firefighters Discontinuance of Lobbying Efforts in
Albany, N.Y.

APPENDIX B

- C-15 City of Rochester, New York - 1981 New York State Fire Survey
- C-16 PERB News Vol.15 No. 10 October, 1982
RE: Withdrawal of Demand for Maintenance of Benefits CSEA and the Town of Evans
- C-17 Survey of Private Sector Firms that Suffered Plant Closings and Layoffs in Buffalo, New York Area
N.Y.S. Department of Labor - Fiscal Year 1982
- C-18 Excerpt from Buffalo Evening News, Dated March 2, 1982
"Living Costs Lower Here"
- C-19 Excerpt from Buffalo Evening News, Dated August 17, 1981
"Living Costs Here Still Below Norm"
- C-20 First 1982 Report Covering Firefighting Personnel or Paid Fire Departments in New York State - N.Y.S. Public Employment Relations Board May, 1982
- C-21 Buffalo Evening News Article entitled, "Buffalo Tops Big Cities in Low Inflation" Circa June, 1982
(Exact Date not Supplied)
- C-22 New York Times Article entitled, "Excerpts from Report on City's (N.Y.C.) Fiscal Prospects
- C-23 Buffalo Evening News Article entitled, "More Than a Third in County Receiving Aid, Study Shows" June 28, 1982
- C-24 The Report of the City Financial Review Committee, January 20, 1982 vis City of Rochester
- C-25 Ratio of Firefighters to Population - U.S. Census Bureau 1980 Census
- C-26 Firefighters Per Square Mile - U.S. Census Bureau 1980 Census
- C-27 Municipal Civil Service Commission of Buffalo - Report the Open Competitive Examination for the Position of Firefighter (1-243079)
- C-28 Cost of Union Proposals - General Information
- C-29 Increases Since July 1, 1974 in Dollars Per Year for the Positions of Mayor, Commissioner of Fire and Firefighter
- C-30 Paid Meal Allowances - Survey by City of Buffalo

APPENDIX B

- C-31 Agreement Between City of Buffalo, New York and Buffalo Police Benevolent Association, Inc. July 1, 1980 - June 30, 1982
- C-32 Longevity Payment Schedule PBA Agreement Article IV
- C-33 Longevity Payment Schedule
- C-34 Firefighter Clothing and Equipment Costs - November, 1982 Projected
- C-35 Courier Express Article, July 30, 1982, entitled, "Union Raises Put At Average of 3%"
- C-36 The Economic Basis of Buffalo's Ability to Pay - prepared by DeSeve Economic Associates, Inc.
- C-37 The Fiscal Basis of Buffalo's Ability to Pay - prepared by DeSeve Economic Associates, Inc.
- C-38 Wage and Price Comparisons - prepared by DeSeve Economic Associates, Inc.
- C-39 City of Buffalo 1982-1983 Budget
- C-40 Mayor's Budget Message for 1982-1983 Dated, May 1, 1982
- C-41 Letter from State Senator John Marchi to Mayor James Griffin, Dated February 22, 1982
RE: Distribution of State Aid
- C-42 The New York State Mid-Year Report, October, 1982
Message of the Governor
- C-43 George Arthur, et.al., Plaintiffs vs. Ewald P. Nyquist, Defendants
U.S. District Court, Western District of New York
CIV - 1972 - 325C August 27, 1982
- C-44 Estimated Costs for Reopening Engine Co.'s 18 and 30
- C-45 Financial Breakdown of Firemens Pension Fund
- C-46 Buffalo Charter, Article 25 - Pensions
- C-47 Buffalo Fire Department Statistics 1970-1982
- C-48 Reporting System and Statistics Re Firefighter Casualties for the Years 1979 through 1982
- C-49 The Buffalo Evening News, November 7, 1982 re City and Firefighters 1982 Arbitration



CITY OF BUFFALO
DEPARTMENT OF ADMINISTRATION AND FINANCE

203 CITY HALL

BUFFALO, NEW YORK 14202

James D. Griffin
Mayor

February 4, 1983

RICHARD PLANAVSKY
COMMISSIONER

RE: New York State P.E.R.B.
Case No. IA82-14;M82-239
Dissent of Panel Member

I dissent from the opinion and award of the majority in the above referenced case.

The majority wrote in its opinion that "the City has introduced good management techniques and cost controls, which along with departmental reorganizations and staff retrenchment, have streamlined municipal operations" and that the City has demonstrated an "ability to manage effectively scarce factor resources." Further, the majority wrote the City "has begun the 1982-83 fiscal year with a surplus" and "from all these accounts, the panel finds that the City can afford to underwrite a modest though restrained salary and benefit enhancement collective agreement, but not near the magnitude of other municipal and state of New York settlements."

While, in general, I agree with the above statements and conclusion, the salary and benefit increases awarded by the majority are more than modest when considered in light of the City's financial ability to pay.

As the majority itself pointed out in referring to a "noticeable turnaround" and marked improvement in the City's financial position since the mid 1970's, "this noticeable turnaround is contingent upon scrutinous budget management."

The City representatives explained to the panel the negative affects of the current economic recession upon the revenues of the City and the severe, potential hardship imposed on the City by Federal Justice John T. Curtin's order to the City to provide \$7.4 million in additional, unbudgeted funding to the Buffalo Board of Education in the current 1982-83 fiscal year.

Further, the panel was told the City budget for fiscal 1982-83 has a salary adjustment account that contains only enough funds to provide a 2% salary increase for all City employees including firefighters. These financial considerations weighed heavily in my consideration of this case and together with other relevant factors caused my decision to dissent.

New York State P.E.R.B.
February 4, 1983
page 2

Finally, I will state for the record that the panel attempted to make a just and acceptable determination in this case and much time and effort was expended to that end. Also, considerable labor relations skill was demonstrated by the panel chairman during the proceedings.

Sincerely,

A handwritten signature in cursive script that reads "Richard Planavsky". The signature is written in dark ink and is positioned above the typed name.

Richard Planavsky, City of Buffalo Panel Member

RP/lj