

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
INTEREST ARBITRATION PANEL

DEC 16 1994

CONCILIATION

In the Matter of the Arbitration
between
THE TOWN OF GREENBURGH,
Public Employer,
-and-
POLICE ASSOCIATION OF THE TOWN OF
GREENBURGH,
Employee Organization.
PERB Case No. IA93-037; M93-143

OPINION

AND

AWARD

BEFORE: Jeffrey M. Selchick, Esq.
Public Panel Member and Chairman

Edward W. Guzdek, President, PCNY
Employee Organization Panel Member

Edward Lieberman, Esq., Deputy Town Attorney
Employer Panel Member

APPEARANCES:

For Town of Greenburgh:
Vincent Toomey, Esq.

For Police Association of Town of Greenburgh:
Thomas J. Troetti, Esq.

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the Chairperson of the New York State Public Employment Relations Board, to make a just and reasonable determination of a dispute between the Town of Greenburgh ("Town") and the Police Association of the Town of Greenburgh ("Police Association").

BACKGROUND

The Town of Greenburgh, consists of 17 square miles, and is the largest town located within Westchester County. The Town, listed in the 1990 census as having a population of over 40,000, is the most populous of the eleven (11) towns within the County, and ranks fourth in overall County population, trailing only the cities of Yonkers, Mount Vernon and New Rochelle. Located within the Town are the incorporated villages of Ardsley, Dobbs Ferry, Elmsford, Hastings-on-Hudson, Irvington and Tarrytown.

The Police Association is the certified bargaining agent for all Police Officers employed by the ^{Town} ~~City~~, exclusive of the Chief of Police. There are current 101 bargaining unit positions.

The last collective bargaining agreement between the parties covered the period which commenced January 1, 1989 and ended December 31, 1990 (Joint Exhibit 4). Thereafter, for the period which commenced January 1, 1991 and ended December 31, 1992, the parties were subject to an Interest Arbitration Award, which was issued on September 1, 1992 (Joint Exhibit 5).

The parties subsequently entered into negotiations for a successor contract in 1993, but such negotiations were unsuccessful, and in December of 1993 the parties reached impasse.

Subsequent mediation by a PERB Mediator was unsuccessful, and on December 16, 1993, the Police Association filed a Petition for Interest Arbitration (Joint Exhibit 1) pursuant to Section 209.4 of the Civil Service Law.

The Town filed a Response to said Petition on January 3, 1994 (Joint Exhibit 2), and thereafter, on March 9, 1994 the undersigned Public Arbitration Panel was designated by the Public Employment Relations Board (Joint Exhibit 3), acting pursuant to Section 209.4 of the NYS Civil Service Law.

An arbitration hearing was conducted before the undersigned Panel at Greenburgh Town Hall on August 1, 1994. At the arbitration, both parties were represented by Counsel and had other representatives present. Both parties submitted numerous exhibits and documentation, and both parties presented argument on their respective positions. After the hearing process was completed, both parties submitted additional exhibits and post-hearing briefs to the Panel.

Thereafter, the undersigned Panel met in Executive Session, and reviewed all data, evidence, argument and issues. After discussion and deliberations at the Executive Session, the Panel members reached unanimous agreement on this Interest Arbitration Award.

The positions originally taken by both parties are quite adequately specified in the Petition and the Response, numerous hearing exhibits, and post-hearing briefs, which are all incorporated by reference into this Award.

The parties extended the jurisdiction of the Panel and requested that a three year Award be issued. Set out herein is the Panel's Award as to what constitutes a just and reasonable determination of the parties' contract for the period commencing January 1, 1993 and ending December 31, 1995.

In arriving at the determinations herein, the Panel has specifically considered the following criteria, as specified in Section 209.4 of the Civil Service Law:

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 the 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.

SALARYDiscussion on Salary

As is usually the case in Interest Arbitration, at the center of the instant impasse is the issue of the appropriate salary increase to be awarded to unit members. The Police Association has indicated that a review of salaries of top grade patrol officers in the 10 other towns within Westchester County¹ reveals that Greenburgh police were the highest paid in 1992. Among the 10 Westchester County towns, the increases in salary for 1993 ranged from a low of 3% to a high of 5%, with an average increase of 4.5%. The increases in salary for 1994 in the comparable towns ranged from a low of 3.6% to a high of 4.5%, with an average increase of 3.9%. None of the comparable Westchester County towns have a collective bargaining agreement in place for police officers for 1995.

Submitted data also indicates that for the 6 incorporated villages within the Town of Greenburgh,² the increases in salary for 1993 ranged from 3.5% to 5.5%, with an average of 4.5%. The salary increases in the villages for 1994 ranged from 3.5% to 4%, with an average slightly under 4%. The villages of Ardsley, Hastings and Elmsford have collective bargaining agreements in place for 1995, which provide salary increases ranging from 4% to 5%.

¹ Eastchester, North Castle, Bedford, Ossining, Mamaroneck, Harrison, New Castle, Yorktown, Mount Pleasant and Cortlandt.

² Irvington, Hastings, Ardsley, Dobbs Ferry, Elmsford and Tarrytown.

The Police Association argues that Greenburgh police should be allowed to retain their relative ranking in salary when compared with other police within Westchester County. The Police Association indicates that the workload has increased for Greenburgh police, and EMS calls in particular have shown a significant increase in 1994 (see Annual Report 1993; Association Exhibit 5). The Greenburgh Police Department is the only police agency within the State of New York which provides emergency medical services to the residents and visitors to the Town.³

The Police Association contends that the Town has the ability to pay annual increases greater than the 4.2% increases awarded police in comparable communities in Westchester County. The Police Association, based on a consultant's report on the Town's economic condition, contends that the 1994 Town budget (Employer Exhibit 2F) shows a surplus fund balance, in the sum of over \$4.8 million (see Association Exhibit 1). In addition to a property tax rate decrease in 1993, it is uncontroverted that the Town's actual revenues in 1993 were greater than what had been budgeted to be spent. The Police Association further asserts that there is a balance in the Town's contingency account for 1994 of \$473,682, which was earmarked by the Town to provide for some funding for contract settlements (Association Exhibit 1). With the large unappropriated balance on hand at the end of 1994, the Town shows no current fiscal problems or deficits.

³ It must be noted that while the Town has slightly over 40,000 residents, the daytime population, due to a large business community within the Town, has been estimated at 105,000 people.

The Police Association maintains that based on the clearly solid financial condition of the Town, there can be no valid claim by the Town that it does not have the ability to pay the salary increases necessary to keep Greenburgh Police in their relative top salary status when compared to police in other communities in Westchester County.

The Town has requested that the Panel not make an award that will jeopardize its financial future or create a situation of fiscal irresponsibility in order to meet bargaining unit demands. The Town has a great concern in maintaining a favorable credit rating and does not seek to be among many of the municipalities which are currently overextended and which are now facing financial difficulties. The Town's largest source of revenue is the property tax, and since 1989, the Town's assessed valuation has dropped every year: from \$379,378,000 in 1989 to \$358,416,000 in 1994, which is a loss of \$21 million on the tax base. Most recently, from 1993 to 1994, there has been a drop in assessed value of \$7,855,922. This loss has been caused primarily in the increase of tax certiorari cases (see Employer Exhibit 2A). As a result of the erosion of the tax base, the Town was forced to raise property taxes by approximately 10% in 1993.

The Town also has had problems with tax collections, and in addition to collecting Town taxes, is required to collect taxes for the 10 school districts within the Town. As the Town is required to guarantee payment of the school taxes, it often has

paid school taxes to the school districts which it has not yet collected (Employer Exhibit 2C). In 1992, the Town was able to collect only 96% of the tax levy. Outstanding delinquent taxes for 1993 were over \$5.5 million (Employer Exhibit 2B).

Regarding the unappropriated surplus as of December 31, 1993, the Town argues that the surplus is not extraordinary in any way and is in line with the recommendations of the State Comptroller for municipalities of similar budget as Greenburgh. Monies in the contingency fund are not solely identified for salary increases, and in fact, some monies in the contingency fund have been designated to improve the Police Department's telephone system. The Town also points out that it was forced to raise taxes in 1993 by approximately 10%, and at the same time, froze all spending. The Town does not believe it is fiscally prudent to increase taxes to pay for unusually high salary increases.

In reaching the salary determinations herein, the Panel has considered the current state of the Town's fiscal situation and has reviewed the Town's budget for 1994 (Employer Exhibit 2F) and 1994-95 (City Exhibit 18), as well as all relevant documents concerning tax collections. The Panel has also reviewed the detailed report submitted by financial consultant Edward Fennell (Association Exhibit 1), and the Panel finds that the Town clearly has the ability to pay the modest salary increases awarded herein.

The Panel has also compared the salaries of Greenburgh police with those of police in comparable towns and villages within the Town of Greenburgh, and has reviewed the most recent salary increases reached either through collective bargaining or interest arbitration. Finally, the Panel has also carefully reviewed and noted the salary increases received by other employees of the Town; CSEA represented employees (Employer Exhibit 4) and employees represented by Teamsters Local 456 (Employer Exhibit 3).

The Panel finds that the salary increases awarded herein will serve to keep Greenburgh police salaries competitive yet at the same time are within the ability of the Town to pay and will not require any additional tax levy or bond issuance to be met.

In sum, the Panel has considered all of the data and arguments presented by both parties, and has applied such data to the criteria mandated by statute as specified in Section 209.4 of the Civil Service Law.

Accordingly, and after consideration of the extensive exhibits, documentation, and testimony presented herein; and, after due consideration of the criteria specified in Section 209.4 of the Civil Service Law, the Panel makes the following

AWARD ON SALARY

1. Effective July 1, 1993, the salary guide shall be increased by 4%
2. Effective January 1, 1994, the salary guide shall be increased by 3.75%
3. Effective January 1, 1995, the salary guide shall be increased by 3.25%
4. Effective December 1, 1995, the salary guide shall be increased by 2%

In addition to the salary increases, the Panel has reviewed the other proposals submitted by both parties, and has considered the data, exhibits, documentation, and testimony presented herein; and, after due consideration of the criteria specified in Section 209.4 of the Civil Service Law, the Panel makes the following:

AWARD ON LONGEVITY PAYMENTS

Effective December 1, 1995, the longevity payment applicable to after nineteen (19) years of continuous police employment with the Town shall be increased by \$150.00

Article II, Section 4 of the 1989-90 Agreement shall be amended to change the date of May, 1977 to August 1, 1994, for purposes of calculating longevity payments for officers who previously served as Police Officers in another jurisdiction.

Effective December 31, 1995, officers who transferred in to the Greenburgh Police Department shall get credit for time served as a Police Officer previously in another jurisdiction, for purposes of longevity.

AWARD ON WELFARE FUND

Effective January 1, 1995, the Town's contribution to the Association Welfare Trust as specified in Article XVII of the 1989-90 Agreement, shall be increased to \$325 for each member of the bargaining unit. ~~for each year of the term of this Award.~~

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Jan 1

AWARD ON HEALTH INSURANCE

Article XIV, Section 7(b) of the 1989-90 Agreement is amended to include the following:

- 7b. The parties agree that the version of the Empire Plan in existence on 8/1/94 which is most comparable to the existing hospital and medical coverage provided by the Town on said date, is deemed comparable for purposes of this Section.

AWARD ON REMAINING ISSUES

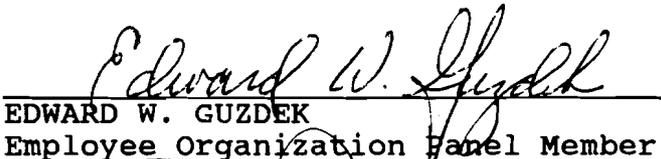
All other terms of the 1989-90 Agreement, as modified by the Interest Arbitration Award of 9/1/92, are continued unless modified herein. Any proposals and/or items other than those specifically modified by this Award are hereby rejected.



JEFFREY M. SELCHICK, ESQ.
Public Panel Member and Chairman

12/14/94
Date

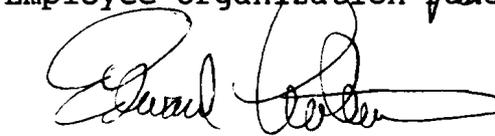
Concur



EDWARD W. GUZDEK
Employee Organization Panel Member

11/22/94
Date

Concur



EDWARD LIEBERMAN, ESQ.
Employer Panel Member

12/1/94
Date

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

On this 14th day of DEC 1994, before me personally came and appeared Jeffrey M. Selchick, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

Cathy L. Selchick
Notary Public

CATHY L. SELCHICK
NOTARY PUBLIC STATE OF NEW YORK
NO. 4830618
QUALIFIED IN ALBANY COUNTY
COMMISSION EXPIRES NOVEMBER 30 1995

STATE OF NEW YORK)
COUNTY OF) ss.:

On this 22nd day of NOV. 1994, before me personally came and appeared Edward W. Guzdek, to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

Richard F. Czechowicz
Notary Public

RICHARD F. CZECHOWICZ
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 11/21/95

STATE OF NEW YORK)
COUNTY OF) ss.:

On this 1st day of December 1994, before me personally came and appeared Edward Lieberman, Esq., to me known and known to me to be the individual described in the foregoing Instrument, and he acknowledged to me that he executed the same.

Esther Lombardo
Notary Public

ESTHER LOMBARDOZZI
Notary Public, State of New York
No. 4995382
Qualified in Putnam County
Term Expires April 20, 1996