

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

In The Matter of Impasse Between)
VILLAGE OF LARCHMONT)
and)
LARCHMONT POLICE)
BENEVOLENT ASSOCIATION, INC.)

ARBITRATION AWARD
Case No. IA83-7; M83-579

Martin Ellenberg, Esq. -Public Panel Member and Chairman
Archie A. Messenger, Esq. -Employer Panel Member
Sheldon Engelhard, Esq. -Employee Organization Panel Member

The New York State Public Employment Relations Board, having determined that a dispute continued to exist in negotiations between the Village of Larchmont (hereinafter referred to as the "Village") and the Larchmont Police Benevolent Association, Inc. (hereinafter referred to as the "Association") and that such dispute was within the provisions of New York Civil Service Law, Section 209.4, thereby, on June 30, 1983 designated this Public Arbitration Panel in accordance with the provisions and procedures contained in Section 209.4.

Hearings were held before the Panel, in Larchmont, on September 13th and 20th and on November 29, 1983. Each party, through its designated representatives, presented its position by presentation of argument, testimony, evidence and exhibits, given in the presence of and subject to cross-examination and rebuttal by the other party. The Village was represented by Michael A. Hagen, Employee Relations Consultant and on September 20th C. DeLuca, Village Treasurer. The Association was represented by Benedict Ginsberg, Esq., Frank C. Wood, President and Benjamin E. Renton, Vice

President and on September 20th, Bernard Rosenbaum.

Thereafter, the Panel met in executive session on December 19, 1983 and on January 17th and February 13, 1984 for discussion and resolution of the matters before it. The findings of the Panel are presented in the sequence of the proposed collective bargaining agreement which constitutes Village Exhibit A. At the hearing on November 29th, the parties mutually agreed to utilize this exhibit as the means of documenting all the provisions on which they agreed and to identify those items on which there was not agreement and which were, therefore, submitted to the Panel for settlement.

Arbitration Fees - Article 6, Section 4(c).

The Association proposed that the grievance arbitration language of the collective bargaining agreement provide that the losing party shall pay all fees. The Village prefers to retain the existing language which provides that, regardless of the award, arbitration fees are shared equally by the parties.

Award: Association proposal denied.

Discussion: Sharing fees equally is, by far, the prevailing practice and if this language is to be changed it should be negotiated directly by the parties. Such a change should not be imposed by this Panel unless the Association could demonstrate that the Village misused the existing language to frustrate or thwart the grievance/arbitration process.

Hours of Work - Article 7, Section 1.

The Association requests that the work schedule be revised to permit 80 hours off between shifts of duty. The Village seeks to retain the existing language, namely 72 hours off between shifts.

Award: Association request denied.

Discussion: Prevailing scheduling in Westchester communities provides for 72 hours off between tours of duty. The party proposing the change did not convincingly demonstrate why this Panel should find otherwise.

Night Shift Differential - Article 7, Section 2.

The Association requests a 5% pay differential for night duty.

Award: Association request denied.

Discussion: Since shift work is rotated, compensation for night duty is properly part of annual pay and is one of the factors considered in establishing appropriate salaries for police officers.

Call-in Pay - Article 8, Section 4.

The Village proposed that when an employee is scheduled to appear in court while off duty and the court matter is then adjourned or completed in less than four (4) hours, the employee may be assigned other work in order to qualify for call-in pay (four hours at time and one-half the employee's normal rate of pay).

Award: Village proposal denied.

Discussion: Although it is expected that the Village will seek to improve productivity, particularly by elimination of idle or inefficiently utilized paid time, this situation does not, apparently, occur often and is probably regarded as somewhat of a fringe benefit when it does. In any event, the proposed revision of this existing practice would best be effected by the parties, not by this Panel, in the absence of compelling argument otherwise.

Holiday Pay - Article 9, Section 1.

The Association seeks payment at time and one-half when the work schedule requires

duty on any of the twelve (12) nationally recognized holidays.

Award: Association request denied.

Discussion: Again, this is not the prevailing practice in Westchester and, therefore, should not be recommended by this Panel.

Vacations - Article 10.

The parties are in agreement on vacation eligibility for employees with less than ten (10) years of service and for employees with ten (10) or more years service if employed May 31, 1982 or earlier. For those hired June 1, 1982 or later, the Village proposes no additional vacation beyond the twenty (20) days earned after completing five (5) years of service. The Association proposes that all employees with ten (10) or more years service be entitled to twenty-five (25) days, instead of twenty-two (22) as provided in the expired agreement.

Award: Employees hired from June 1, 1982 through February 29, 1984 shall be entitled to twenty-two (22) days paid vacation leave upon completing ten (10) years of service. Employees hired March 1, 1984 or thereafter shall receive no additional vacation eligibility beyond twenty (20) days per year to which they are entitled after completing five (5) years of service.

Discussion: The parties mutually agreed to increase annual vacation eligibility for employees with one (1) year of service from fourteen (14) to fifteen (15) days; for employees with five (5) years of service from seventeen (17) to twenty (20) days and, for employees already on the payroll by May 31, 1982, from twenty-two (22) to twenty-five (25) days upon completing ten (10) years of service. They could not agree on this provision as it applied to "new" employees. In view of the increase of vacation benefits for the much greater number of bargaining unit members, the Village's proposal to contain vacation costs some ten years from now does not pose an unexpected burden on present Association members. However, such change should not

be applied retroactively and therefore, for employees hired as of the effective date of this Agreement, but before this Award is issued, the pre-existing provision for twenty-two (22) days upon completing ten (10) years of service is preserved.

Sick Leave - Article 11.

The Association requests unlimited sick leave based on medical evidence, to replace the existing provision of one (1) day per month which may be accumulated.

Award: Association request denied.

Discussion: The existing provision is much more typical of prevailing practice. This Panel cannot justify its revision.

Longevity Pay - Article 12.

The present schedule provides for annual payments, based on length of service, of \$400 after ten (10) years, \$450 after fifteen (15) years and \$500 after twenty (20) years. The Association requests increases to \$500, \$750 and \$1,000 respectively.

Award: Association request is granted, in part, as follows:

10 but less than 15 years	-\$500
15 but less than 20 years	-\$600
20 years or more	-\$750

Discussion: This revision reflects an intent to recognize length of service and the value to the community of an experienced police department. To some extent it also offsets the rejection of various Association proposals for additional paid time off.

Educational Development - Article 13.

The Association requests additional compensation, a one-time payment, for successful completion of a degreed course of study.

Award: Association request denied.

Discussion: There is little precedent for this request in reviewing practices in other communities.

Uniforms and Clothing - Article 16, Section 2.

The Association requests an increase in clothing allowance for non-uniformed personnel from \$400 to \$500. The Village proposes an increase to \$450 per year.

Award: Association request granted.

Discussion: Significant increases in cost for clothing and proper maintenance merit this adjustment. It is particularly equitable when compared to the increase in the uniform maintenance allowance from \$200 to \$250, to which the parties mutually agreed.

Health and Dental Insurance - Article 17, Sections 1 and 4.

For members (and their dependents) who were employed at the commencement of the term of this Agreement and who retire during the term of this Agreement, having completed twenty (20) years of service or by reason of disability, the Association seeks paid up hospitalization effective to the date of expiration of this Agreement. It also seeks an improved dental insurance, known as Tri-County Federation of Police Plan B.

Award: Association requests denied.

Discussion: Medical and dental insurance premiums have increased during recent years at a rate approximately twice the increase in the cost of living. Some public sector employers have attempted to pass at least a part of these increases on to their employees by demanding employee contributions through withholding from pay checks. The Village's position, to maintain the level of benefits and to continue to assume payment of the full premium is, in today's circumstances, fair to the Association's members and is sustained.

Personal Leave - Article 21.

The pre-existing agreement provides for seven (7) days off with pay. The Association requests an increase to eight (8). The Village proposes a decrease to three (3).

Award: Association and Village proposals denied.

Discussion: There was no convincing argument by either party that the seven (7) day provision is inadequate in meeting the needs of the Association's members and, based on evidence submitted, it may be the most liberal paid leave provision in any Westchester village, town or city. Nevertheless it is an existing benefit and since we do not know what may have transpired in prior negotiations for the Association to achieve that benefit, we have little basis for changing it. In fact, other than offering a comparison to other communities, there is no evidence on the part of the Village that this benefit causes problems or imposes a burden requiring rectification.

Salary - Article 24.

For the annual salary schedule for patrolmen, the Association requests an increase of 15% in each year of a two year agreement. The Village proposes an increase of 7½% in each year of a two year agreement.

Award: Effective June 1, 1982 - + 8.75% (to \$25,034)

 Effective June 1, 1983 - + 7.5 % (to \$26,912)

A one-time payment shall also be made to each member equal to 6% of one-half (½) the amount of increase awarded to such member for the period 6/1/82 - 5/31/83. Such payment shall be made no later than March 31, 1984.

Discussion: This issue was subject to the most exhaustive (and exhausting) study by the Panel. Evidence, testimony and argument were reviewed pertaining to cost of living, increases in cost of living, agreements between the Village and its other bargaining units, salary levels and trends for police in Westchester villages, towns and

cities, particular review of salary levels for police in the Town of Mamaroneck and the Village of Mamaroneck and similar related data.

Most significant of all of these comparisons were the relationship of Larchmont police salaries to other Westchester villages. The increase of 8.75% for 1982 is particularly appropriate for two significant reasons. First, based on the submitted evidence, average first grade police officer's salary for the nineteen (19) reported Westchester villages, excluding Larchmont, increased by 8.76% in 1982 over 1981. Secondly, this increase permitted Larchmont to be positioned eighth for 1982 in ranking salaries among twenty-one Westchester villages. In 1981, it was ninth; in 1980 it was seventh. It is also worth noting that, in fact, Larchmont's first grade salary (\$25,034) will be approximately \$300 above the average, \$1,100 below that of Hastings (the highest), \$890 below the Village of Mamaroneck (next below Hastings) and \$357 less than the Town of Mamaroneck on June 1, 1982, \$2,388 less on January 1, 1983 (different fiscal year).

Effective June 1, 1983 the Village proposal of 7.5% appears to be reasonable in view of the then prevailing general economic trends and the lack of clear evidence or indications that a 7.5% increase would be inappropriate or at significant variance to other related settlements.

Lastly, while we recognize that the Village voluntarily effected a salary adjustment in December 1983 so that unit members would not continue to be paid at rates negotiated effective June 1, 1981, there is, nevertheless, a loss to members of the use of any increased salary for some eighteen (18) months. It is not unusual for negotiations to continue beyond the effective date but the period of time involved here is extensive and retention of such funds also creates an unearned benefit for the Village. It is more

equitable to award a one-time payment to members equal to savings bank interest earnings, had such increased earnings been banked, as paid, for a period of one year.

Duration (Renewal) of Agreement - Article 25, Section 2.

The Village seeks to require either party to give one hundred and twenty (120) calendar days notice to the other, prior to expiration of this Agreement if it seeks modification rather than automatic renewal.

Award: Village proposal denied.

Discussion: In view of the extensive procedures and rules in the Civil Service Law and other statutes pertaining to public employee labor relations, it was not demonstrated that the proposed language is required or recommended to enhance an effective good faith relationship between the parties through imposition by this Panel.

* * *

Respectfully submitted,

Diane Sullivan
DIANE SULLIVAN
Notary Public, State of New York
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Qualified in Kings County
Commission Expires March 30, 1985

Martin Ellenberg
Martin Ellenberg, Esq.
Public Panel Member and
Chairman

SUBSCRIBED AND SWORN TO BEFORE ME ON FEB. 27, 1984

ELIZABETH C. LYNN
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Archie A. Messenger
~~Concurring/Dissenting~~
Archie A. Messenger, Esq.
Employer Panel Member
Subscribed and sworn to before me on Feb. 27, 1984.

Sheldon Engelhard
~~Concurring/Dissenting~~
Sheldon Engelhard, Esq.
Employee Organization Panel Member
Subscribed and sworn to before me on Feb. 29, 1984.

-9- *Christine M. Magnusson*
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