

BEFORE THE ARBITRATOR
STATE OF ILLINOIS

In the Matter of the Interest :
Arbitration Between :
: :
VILLAGE OF SCHAUMBERG, ILLINOIS : :
: : Case No. S-MA-93-155
and : :
: :
SCHAUMBERG LODGE NO. 71, ILLINOIS : :
FRATERNAL ORDER OF POLICE LABOR : :
COUNCIL : :

APPEARANCES: THOMAS F. SONNEBORN, Legal Director, and BECKY S. DRAGOO, Legal Assistant, Illinois Fraternal Order of Police Labor Council, appearing on behalf of the Union.

R. THEODORE CLARK, JR. of Seyfarth, Shaw, Fairweather & Geraldson, Attorneys at Law, appearing on behalf of the Village.

OPINION AND AWARD

The Village of Schaumburg, Illinois, hereinafter referred to as the Village, and Schaumburg Lodge No. 71, Illinois Fraternal Order of Police Labor Council, hereinafter referred to as the Union, were parties to a collective bargaining agreement effective from May 1, 1990 through April 30, 1993. The parties were unable to reach a final agreement on the terms to be included in a successor collective bargaining agreement and selected the undersigned to serve as arbitrator, pursuant to the terms of their alternative impasse resolution agreement, to resolve the remaining issues in dispute. Thereafter, the parties exchanged their final offers on the remaining issues in dispute and a hearing was held before the arbitrator on June 10, 1994, at which time the parties

presented their evidence. A verbatim transcript of the hearing was prepared and the parties filed written arguments which were received by and exchanged on August 26, 1994. Full consideration has been given to the evidence and arguments presented, in rendering the award which follows.

THE ISSUES IN DISPUTE

At the time of the hearing, six issues remained in dispute. In general, they dealt with the wage rates to be effective during the third year of the agreement, beginning on May 1, 1995; the extent to which the wage increases in effect during the first two years of the agreement would be made retroactive; the size of the deductibles to be applicable for single and family coverage under the group hospitalization and major medical insurance plan for the remainder of the duration of the agreement; the timing of a proposed increase in the amount of term life insurance covering bargaining unit employees; the extent to which employee disciplinary matters should be referenced in the agreement or subject to grievance arbitration; and the proper wording of a new provision, dealing with the application of the Americans with Disabilities Act (ADA), to be included in the non discrimination article. The parties agree that the first four issues are economic in nature and that the remaining two issues are non economic in nature. The parties' positions on each of the six issues will be taken up and discussed separately.

WAGES

The bargaining unit includes all full-time, sworn police officers below the rank of sergeant. The following yearly salary amounts were applicable to employees covered by the terms of prior agreement during its final year:

<u>Step</u>	<u>Yearly Salary</u>
One	\$27,787
Two	\$31,527
Three	\$34,767
Four	\$38,262
Five	\$42,200

In addition, covered employees were entitled to receive annual longevity payments in the first payroll period in December in accordance with the following schedule:

Upon Completion of 5 years service	.....	\$ 450.00
Upon Completion of 10 years service	.....	\$ 600.00
Upon Completion of 15 years service	.....	\$ 900.00
Upon Completion of 20 years service	.....	\$1200.00
Upon Completion of 25 years service	.....	\$1500.00

Neither party proposes to alter the structure of the salary schedule or the amount and timing of the longevity payments and both parties propose identical percentage increases for each of the first two years of the agreement. Under their final offers, the yearly salaries reflected in the salary schedule would be increased by 4%, effective May 1, 1993, as follows:

<u>Step</u>	<u>Yearly Salary</u>
One	\$28,898
Two	\$32,788
Three	\$36,158
Four	\$39,792
Five	\$43,888

Under both final offers, these rates would be increased by an

additional 3%, effective May 1, 1994, as follows:

<u>Step</u>	<u>Yearly Salary</u>
One	\$29,765
Two	\$33,772
Three	\$37,243
Four	\$40,986
Five	\$45,205

The Village proposes to increase these salary figures by an additional 3.25% for the third year of the agreement, effective May 1, 1995. Under its final offer, the salary schedule for the third year of the agreement would be as follows:

<u>Step</u>	<u>Yearly Salary</u>
One	\$30,732
Two	\$34,870
Three	\$38,453
Four	\$42,318
Five	\$46,674

Under the Union's final offer, the agreement would provide for a reopener "concerning the increase in wages to be effective May 1, 1995," with negotiations beginning on February 1, 1995 and the resolution of any impasse under the terms of the parties' alternative impasse resolution agreement.

Union's Position on Wages

The Union's position on wages is closely related to its position on the deductibles to be applicable under the health insurance plan during the third year of the agreement. Its position on both issues was formulated after its membership rejected the terms of a tentative agreement reached by the parties' negotiating teams on November 12, 1993. Under the terms of that

agreement, which was subject to ratification by the Village board and the Union's membership. In that tentative agreement, the parties agreed to the increases reflected in the Village's final offer, along with the increases in the deductibles proposed by the Village, to take effect on January 1, 1996. According to the Union, in rejecting the terms of the tentative agreement, its membership questioned the Village's "need" to increase the size of the deductibles as proposed. As a consequence, when the matter could not be resolved through further bargaining, and both parties reformulated their positions, the Union proposed to reopen the issue of wages and health insurance deductibles during the last year of the agreement.

In the Union's view, the Village has the burden of establishing a need to increase the deductibles as proposed and it has failed to do so. According to the Union, the 3.25% increase proposed by the Village for the third year of the agreement would do little more than maintain employees' purchasing power relative to the cost of living and employees would, in fact, suffer an out-of-pocket loss after inflation, if the increased deductibles are implemented.

The Union notes that, under the terms of the tentative agreement, wage increases were to be fully retroactive and the increase in the deductibles was delayed. The Union states that it was willing to risk the possibility that the Village would revert to its current position on those issues, because of its firm belief

that the Village has failed to establish that it needs to increase the deductibles as proposed. The Union points out that it agreed to an increase in the deductibles under the terms of the prior agreement when, in its view, the Village had presented sufficient evidence to establish a need for such a change. Here, it argues, that evidence is lacking.

The Union takes strong exception to the Village's argument that the Union's position on wages (and the other remaining issues in dispute) should be rejected because its membership rejected the terms of the tentative agreement. According to the Union, both sides reserved the right to reject the terms of the tentative agreement, which were voted upon "as a whole" and its membership did so knowing that both parties would then be free to reformulate their position on the issues which could not be resolved through further negotiations. If it is concluded that the Union must accept the terms of the tentative agreement as to the remaining issues in dispute, it will effectively disenfranchise the employees, the Union argues.

Contrary to the Village's claim, the Union argues that it will not be harmful to the collective bargaining process if the arbitrator rules on the parties' reformulated positions on the remaining issues in dispute, based upon the evidence and arguments of record rather than the terms of the tentative agreement. Citing the opinion of Arbitrator Robert Perkovich in the *Village of Franklin Park*, dated August 2, 1993, the Union argues that

"ratification is an essential part of the free collective bargaining process" and that it would be inappropriate to hold that the terms of a tentative agreement should be imposed on the parties when they were rejected by one of the principals.

For purposes of evaluating the wage issue and the other issues in dispute, the Union proposes to draw comparisons to eight other suburban communities which, in its view, are comparable to Schaumburg based upon such factors as geographic location; population; equalized assessed valuation; median home value; per capita income; median family incomes; local taxes; intergovernmental receipts; total receipts; total expenditures; cash investments and fund balances; and index crime rates. In the Union's view, the following jurisdictions are comparable: Arlington Heights; DesPlaines; Elk Grove; Evanston; Hoffman Estates; Mt. Prospect; Oak Park; and Skokie.

Of the eight comparables proposed by the Union, only two (Arlington Heights and Oak Park) have established wage rates for the 1995-1996 fiscal year. The Union notes that each of those two jurisdictions agreed to 4% increases for the 1995-1996 fiscal year. Utilizing hypothetical comparisons (including longevity) the Union argues that the top Village rate (including maximum longevity) will "slip slightly" in relation to the comparables even if the remaining jurisdictions agree to 3% wage increases. This slippage would be even greater if the others are awarded or agree to increases greater than 3.25%.

The Union notes that five of its comparables are included among the jurisdictions viewed as comparable by the Village and that the Village produced no evidence concerning comparable salaries for fiscal year 1995-1996. Citing its own background data and information concerning the Village and its Police Department, the Union argues that the Village is very prosperous and that the Police Department is considered to be on the "leading edge" among police departments in the state.

According to the Union, the cost of living for the past few years has "hovered" around 3%. As a consequence, it argues, the Village's offer would barely keep pace with the cost of living.

In the Union's view, the Village's parity argument should be rejected. To require "lock step" resolution of contracts with two different bargaining units would negate the intent of the law that each bargaining unit's unique interests be represented by its chosen representative. Further, according to the Union, the evidence discloses that, in the past, the pattern of settlements in the Village had always been set by the non command, police bargaining unit. According to the Union, the Village is seeking, by this proceeding, to reverse this process, even though the police unit has never participated in the "me to" practice or agreed to it.

Finally, the Union notes that there is evidence of exceptions to the Village's parity argument. In 1990-1991, firefighters received a 5% increase, while police only received 4.8% and, in

1989-1990, fire command officers received substantial dollar increases over and above the 4.4% increases granted that year.

Village's Position on Wages

According to the Village, the Union has a "heavy burden" of proving the need to unravel the agreement reached by the parties' authorized bargaining teams during negotiations. While the Village does not dispute the fact that the tentative agreement was subject to ratification, it argues that it would do "incalculable harm" to the collective bargaining process by encouraging both parties to withdraw from tentative agreements reached at the bargaining table in an effort to achieve greater gains through the arbitration process. In support of this position, the Village cites the award of Arbitrator James V. Altieri, in a AAA case involving the *Board of Education of Manasquan, New Jersey*, dated August 11, 1970, wherein he stated:

"It should be a principle of good faith bargaining that, unless there is strong and impelling reason to repudiate the agreement arrived at by the bargaining agent, the contract it agrees upon should be adopted notwithstanding that the principals may not find all aspects of it completely palatable. Both sides participating in the negotiations should be able to be reasonably assured that any agreement hammered out will in fact be final...."

The Village would distinguish the opinion of Arbitrator Perkovich, relied upon by the Union, because he rejected the employer's position in that case that "the terms of that agreement must be imposed by a third party when they were rejected by the principals." Here, the Village agrees that the arbitrator has the

authority to issue a decision which differs from the tentative agreement, but argues that "great relevance" and "considerable weight" should be given to the terms of that settlement agreement in awarding upon the unresolved issues.

The Village relies heavily upon internal comparisons and the evidence of a parity relationship between fire and police salaries to support its position on wages and the other issues in dispute. It notes that its final offer on salary precisely tracks the terms of the negotiated agreement with the Schaumburg Professional Firefighters Association and points to the evidence showing that across the board salary increases for police and fire for the past nine fiscal years have been exactly the same. The Village cites the decision of Arbitrator Irwin M. Lieberman in the *City of Chicago*, (AAA No. 51 39 0058 84R), dated March 13, 1986; the award of Arbitrator Steven Briggs in *Village of Arlington Heights*, (AAA No. 51 390 0112 90B and ISLRB No. S-MA-88-89) dated January 29, 1991; and the undersigned in *Village of LaGrange*, dated October 9, 1987. Those awards all recognized the existence of a parity relationship and the potential for disruption that would result from an award breaking that relationship, in the absence of compelling reasons for doing so.

With regard to the police command and fire command bargaining units, the Village notes that their agreements provided for 4% and 3% increases effective May 1, 1993 and May 1, 1994. They also included a limited reopener for the third year (beginning May 1,

1994) if the increase for the respective rank and file bargaining unit exceeded the 3% salary increase set forth therein. Since the increases for the police and fire units have now been established at 3% by agreement with the fire unit and the final offers of the parties in the police unit, those reopener provisions were not triggered, the Village notes.

The Village proposes to utilize a group of ten contiguous and nearby communities for purposes of making external comparisons on salary and other issues. Included are all contiguous communities with a population of at least 25,000 employees and all communities within a 15 mile radius of Schaumburg with a population plus or minus 25% of the population of Schaumburg (i.e. between 51,400 and 85,732), provided their police officers are represented for purposes of collective bargaining. The Village notes that, even though the Union did not employ specific selection criteria such as those used by the Village, there are five jurisdictions that are common to both groups. According to the Village, its list should be utilized since the five jurisdictions on its list that are not on the Union's list (Elgin, Hanover Park, Palatine, Streamwood, and Wheaton) are all within a 15 mile radius of Schaumburg and three of the five (Hanover Park, Palatine, and Streamwood) are directly contiguous to Schaumburg. Again citing Arbitrator Briggs in the *Arlington Heights* case, the Village notes that geographic proximity is deemed to be an important measure of comparability. Conversely, the Village points out that the three jurisdictions on the Union's

list which are not on the Village's list (Evanston, Oak Park, and Skokie) are all located more than 15 miles from Schaumburg.

With regard to external comparisons, the Village notes that Village police officers at the top step on May 1, 1992 rank second (to Arlington Heights) as of May 1, 1992 and will rank first and third, respectively, as of May 1, 1993 and May 1, 1994. If longevity pay is added to the comparisons, the Village will rank in second place on May 1, 1994. According to the Village, when benefits are added to the comparison, the Village will rank well above average going into the third year of the agreement, when the 3.25% increase takes effect. On the question of duration, the Village notes that eight of the ten comparables it relies upon have three-year agreements, with no reopener. Citing Arbitrator Briggs in *Arlington Heights*, the Village argues that it would be a disservice to both parties to include the Union's proposed reopener in the agreement, given the time, money, and effort both have expended to date and the relatively short time period left under a three year agreement.

Citing published CPI data and projections regarding anticipated increases in the cost of living since the last July 1994 figures were published, the Village argues that this criterion strongly favors its position. The salary increase for the first year exceeded cost of living increases, and, it argues, there is every reason to believe that the 3% salary increase for the second year of the agreement will continue to do so. Further, it argues,

the total of 10.25% increases (uncompounded) will also outpace the total, anticipated increases (uncompounded) in the CPI over the duration of the term of the agreement.

Citing BLS and BNA statistics for state and local government collective bargaining settlements and private sector settlements for the time period covered by the agreement, the Village notes that the percentage increases proposed for all three years of the agreement are above average. The Village also notes that its employment statistics show that it has been very successful in recruiting experienced police officers from other jurisdictions; has virtually no turnover; and has had no difficulty in recruiting qualified applicants. Finally, it argues that the interests and welfare of the public strongly support the acceptance of its offer, notwithstanding its relatively healthy economic position. Village government exists for the service and benefit of its residents and not the benefit of its employees and the fact that it has the ability to pay more than that which is reasonable is irrelevant.

RETROACTIVITY

Under the terms of the prior agreement, which were established by a voluntary settlement, salary increases effective May 1, 1990 were made retroactive for employees still on the active payroll as of the date the agreement was ratified. The signature page, dated June 13, 1990, suggests that ratification occurred shortly after May 1, 1990.

As part of the tentative agreement reached by the parties on

November 12, 1993, the 4% increase effective May 1, 1993 was to be retroactive to May 1, 1993, for all employees who were still on the active payroll as of the beginning of the next payroll period immediately following ratification. Because the tentative agreement was not ratified by the Union's membership, both parties were free to reformulate their final offers on this issue and did so.

Under the Union's final offer the increases in the first two years of the agreement are to be made effective retroactively "as to all hours paid" and the amounts due to bargaining unit employees are to be paid by separate check within 60 days of the issuance of the award herein.

Under the Village's final offer, bargaining unit employees who were employed as of May 1, 1993 and who are still on the active payroll as of the beginning of the next payroll period following the date of the issuance of the award herein, are to receive a "one time lump sum payment of \$1,650.00."

Union's Position on Retroactivity

It is the Union's position that, in an interest arbitration proceeding full retroactivity should be awarded, unless there is some controlling reason to deny it. According to the Union, employers sometimes ask an interest arbitrator to deny employees full retroactivity in order to cut costs; "teach the union a lesson" for having allegedly dragged its feet in negotiations or engaged in dilatory tactics; or to have a "loser" issue in

arbitration. The Union notes that the Village is not economically disadvantaged or financially strapped and there is no evidence or assertion that the Union dragged its feet or engaged in dilatory tactics. Thus, it argues, the Village's proposal on retroactivity is "designed to be a loser." In this way, the arbitrator -- recognizing that one party is rarely "right" on all of the issues and desirous of providing a reasonable resolution of the dispute which does not appear to be one sided -- can award the retroactivity issue to the Union. For these reasons, the Union asks that its final offer be accepted on this issue, but that the weight it is accorded be discounted.

Village's Position on Retroactivity

The Village's position on this issue is twofold. First, it notes that a lump sum payment of \$1,650.00, which is based upon 4% of the average salary of \$41,000.00, is the most "administratively feasible" way of dealing with the retroactivity issue, since the task of computing retroactivity on an employee-by-employee basis back to May 1, 1993, would be a difficult administrative task. Secondly, it notes that it did not receive the *quid pro quo* which it thought it had received at the time the tentative agreement was reached. For this reason as well, the Village argues that its proposed lump sum payment is "appropriate" under the circumstances.

HEALTH INSURANCE

Under the terms of the prior agreement the Village provided a complete basic hospitalization program, at no cost to the employee

for single person coverage and agreed to pay 90% of the cost for dependent coverage. That agreement included deductibles, which took effect on January 1, 1991, in the amount of \$100.00 and \$300.00, respectively, for single person coverage and family coverage. Other changes, in the form of a lifetime cap and co-payment requirement beyond the cap, were added as part of that agreement.

Under the terms of the tentative agreement, the parties agreed to increase the deductibles to \$200.00 and \$600.00, effective January 1, 1996. As noted above, the Union cites its membership concerns over that aspect of the tentative agreement as the most significant factor leading to its rejection.

In its final offer, the Union proposes that there be no changes in the agreement regarding health insurance benefits prior to May 1, 1995. As indicated above, it proposes to include a reopener provision in the agreement, providing for negotiations on the subject of health insurance deductibles to be effective May 1, 1995, with negotiations beginning on February 1, 1995, and resolution of any impasse under the terms of the parties' alternative impasse resolution agreement.

Under the terms of the Village's final offer, the deductible amounts would be increased in two steps. The first increase, to \$150.00 and \$450.00, would take effect the first month following the issuance of the award herein. The second increase to \$200.00 and \$600.00, would take effect on January 1, 1995.

Union's Position on Health Insurance

According to the Union, the Village cannot justify its health insurance proposal on the basis of monetary need. According to the Village's own revenue and expenditure report for April 30, 1994, the Village spent approximately 25% less than was budgeted for health insurance during fiscal 1993-1994.

Instead, according to the Union, the Village is attempting to justify its position on an outdated political philosophy that all of its employees should be treated the same. With the advent of collective bargaining, that approach should be rejected. Each collective bargaining group has the right, under the statute, to bargain wages and benefits, based upon the desires and needs of its membership.

The Village's position is also contrary to the bargaining history in Schaumburg, according to the Union. In the past, the police bargaining unit has been the trendsetter, with the other employee groups attempting to duplicate the results. Here, the Village is attempting to reverse that process, the Union argues.

While the increases in the deductible amounts proposed by the Village are graduated, it should not be assumed that they are inconsequential compared to the wage increases offered. The net percentage increase granted in the third year of the agreement will be reduced by more than six-tenths of a percent for an officer with 10 years of seniority and dependent coverage. Viewed in this light, it is as if the Village is offering a 2.6% increase in the

third year. The Village should not be permitted to implement such a change in the absence of a demonstrated need, according to the Union.

Village's Position on Health Insurance

According to the Village, its proposal on health insurance deductibles arises out of a desire to restore uniformity in terms of how this issue is handled for other Village employees. It notes that the police and fire command bargaining units have both agreed to the increased deductibles, which took effect on January 1, 1993, under the terms of their agreements. The firefighter bargaining unit accepted the increases in stages, as proposed here, effective January 1, 1994 and January 1, 1995. All other Village employees became subject to the increased deductibles on January 1, 1994.

The Village has a uniform health insurance plan, applicable to all Village employees, and, it argues, it is simply not fair for the police bargaining unit to continue to enjoy lower deductible amounts. By accepting higher deductible amounts, all other Village employees will help to reduce the overall plan costs, which will benefit the police bargaining unit as well.

The Village emphasizes the fact that it proposes to implement the change in stages. This aspect of the proposal, along with the internal comparisons, demonstrates that the Village's final offer is the most reasonable, it argues.

The Village argues that external comparisons also support its position. Of the 10 comparisons drawn by the Village, none has

combined deductibles as low as \$100.00 and \$300.00. Nine have deductibles of \$150.00 and \$400.00 or more. Three of the Village's comparables, which are also Union comparables, already have higher deductibles than those proposed by the Village.

According to the Village, the Union's own exhibits demonstrate that the Village's insurance costs increased more than 100% between 1989 and 1993, from \$425,000.00 to \$854,845.00. While the costs may have stabilized since the 1991-1992 fiscal year, that may be in part due to the fact that all other Village employees have begun paying higher deductibles.

The Village notes that it is not proposing this change, without offering some improvements in the insurance area. On January 1, 1993, the Village instituted a prescription card plan, an employee wellness program covering routine physical examinations, and a program for employees who wish to stop smoking or reduce their weight. Under the stipulated agreements, a section 125 salary conversation plan will be made available to employees and extended to cover dependent care and unreimbursed medical expenses, effective January 1, 1994. Also, on that date, the Village will increase the amount it pays toward the cost of dental insurance coverage from \$15.00 per month to \$20.00 per month. This combination of benefit enhancements and tax savings substantially offset the modest additional cost to employees, according to the Village.

The Village also notes that only 59 members of the bargaining

unit participate in the basic plan and are therefore subject to the deductibles. The remaining 46 bargaining unit employees have selected one of the two HMO alternatives, which do not have a deductible requirement. Further, it notes, not all employees subject to the deductibles will be required to pay the amounts in question, since they represent a "user fee." Finally, the Village argues, several recent interest arbitration awards support its position. Arbitrators have supported employer proposals for restructuring of benefits, increased cost sharing and co-payment requirements and similar efforts to control spiraling health care costs, provided they apply to all employees and/or are supported by internal comparables.

LIFE INSURANCE

Under the terms of the prior agreement, each employee covered by the agreement was provided with a \$30,000.00 term life insurance policy. Under the terms of the tentative agreement, the amount of term life insurance provided would have been increased to \$40,000.00, effective January 1, 1994.

Under the Union's final offer the size of the term life insurance policy provided bargaining unit employees would be increased to \$40,000.00, effective January 1, 1994.

Under the Village's final offer, the size of the term life insurance policy would be increased to \$40,000.00, effective May 1, 1995.

Union's Position on Life Insurance

The Union notes that, under either final offer, the amount of life insurance provided to patrol officers will increase to \$40,000.00 and the only remaining issue is when that increase should become effective. Under these circumstances, the Union argues, it is unnecessary to review the comparability data which, in its opinion, supports the increase. However, the Union does note, three of the jurisdictions included on both lists of comparables (Arlington Heights, Elk Grove Village, and Hoffman Estates) have all implemented similar increases prior to the date proposed by the Village.

According to the Union, this increase in life insurance coverage should be available at the earliest possible date, because of the nature of the work performed by bargaining unit members. Under the constraints of the statute, the arbitrator is barred from awarding the most obvious compromise (i.e. an effective date based upon the date of the award) and it is therefore more reasonable to accept the Union's final offer on this issue, it argues.

Village's Position on Life Insurance

The Village argues that internal comparisons strongly support its proposed effective date. Under the terms of the firefighters agreement the increase will take effect on May 1, 1995, the same date proposed by the Village in its final offer in this proceeding. Police and fire command personnel will have term life insurance provided in the amount of \$35,000.00 through April 30, 1995. It

would be inequitable, the Village argues, to grant the increase to employees in this bargaining unit prior to the effective date for the firefighter bargaining unit or to provide employees in this bargaining unit with a higher amount of life insurance coverage than that provided to police and fire command personnel through April 30, 1995.

DISCIPLINE

The prior agreement contained three provisions which made reference to discipline. In paragraph f of Section 1, Article 5, describing management rights, there was reference to the Village's right "to promote, suspend discipline or discharge for just cause." In Section 1, Article 12, dealing with employee security, the agreement provided "no officer covered by this agreement shall be suspended, relieved from duty or disciplined in any manner without just cause." Finally, in Article 13, dealing with the authority of the fire and police commission and its relationship to the terms of the agreement, the following sentence appeared:

"...Notwithstanding any other provision of this agreement, any dispute or difference of opinion concerning any matter or issue which is subject to the jurisdiction of the fire and police commission, including all employee disciplinary matters, shall not be subject to the grievance and arbitration procedures set forth in this agreement." [Emphasis Added]

As part of its final offer in this proceeding, the Union proposes to modify the wording of the above quoted sentence to reverse its meaning with regard to employee disciplinary matters and state that employees should have the right to elect whether to

grieve such matters or seek a hearing before the fire and police commission. Under its final offer, the last two sentences of Article 13 would read as follows:

"...Notwithstanding any other provision of this agreement, any dispute or difference of opinion concerning any matter or issue which is subject to the jurisdiction of the fire and police commission, with the exception of employee disciplinary matters, shall not be subject to the grievance and arbitration procedure set forth in this agreement. Employees shall have the right to grieve disciplinary matters, provided that the employee must elect between the grievance procedure and the fire and police commission for purposes of hearing, and there shall not be multiple hearings and multiple forums over the same issue." [Emphasis added]

The Village proposes, as part of its final offer in this proceeding, to delete the reference to "suspend, discipline, or discharge for just cause" in paragraph f of Section 1, Article 5, and to delete the reference to the just cause requirement set forth in Section 1, Article 12. The Village proposes no changes in the wording of Article 13. Thus, under its final offer, the new agreement would make no reference to discipline other than the reference in Article 13, which would continue to state that employee disciplinary matters which are subject to the jurisdiction of the fire and police commission would not be subject to the grievance and arbitration procedure.

Union's Position on Discipline

It is the Union's position that, under Section 8 of the IPLRA, the Village should be held to be obligated to submit disputes concerning discipline to the grievance and arbitration procedures

of the agreement. Section 8 of the IPLRA reads, in relevant part, as follows:

"The collective bargaining agreement negotiated between the employer and the exclusive representative shall contain a grievance resolution procedure which shall apply to all employees in the bargaining unit and shall provide for final and binding arbitration of disputes concerning the administration or interpretation of the agreement unless mutually agreed otherwise...."

In support of this position, the Union cites the award of Arbitrator Edwin Benn in the City of Springfield case (S-MA-89-74), dated 4-10-90. In his decision, at page 2, Arbitrator Benn held that, since the parties had not mutually agreed otherwise, the language of Section 8 requiring that the agreement provide for final and binding arbitration "determines this question and requires the expansion of the right to arbitration sought by the Union." According to Arbitrator Benn, the fact that the Illinois Supreme Court has held, in the *City of Decatur v. American Federation of State, County and Municipal Employees, Local 268*, 122 Ill 2d 353 (1988), that the subject of binding arbitration was a matter for bargaining, did not require a different result. As Arbitrator Benn held, that decision concerned the scope of bargaining required by the law and not the consequences of bargaining the issue to an impasse in a proceeding subject to the impasse procedures required by Section 14 of the law.

In the view of the Union, the dispute over this issue is precisely the same as the dispute in the *Springfield* case. The parties have bargained to an impasse over the question of whether

the right to arbitration should be expanded to cover discipline and Section 8 determines that question and requires such expansion.

The Union notes that it is proposing a "side-by-side" procedure for administering discipline cases and that arbitrators have approved of such an approach in other cases. It cites the opinion of Arbitrator George Larney in *City of Markham* (S-MA-89-39), dated May 15, 1989, wherein he noted, at page 19, that "such a democratic approach is not uncommon...." The Union also cites the opinion of Arbitrator Harvey Nathan in *Will County* (_____), dated _____, 1988, wherein he held, at page 64, that "there is no legal basis to carve out jurisdictional exceptions to the grievance procedure," in rejecting the Employer's effort to exclude disciplinary matters.

According to the Union, the Village has attempted to circumvent the force of these decisions by removing any reference to the concept of just cause from the agreement and thereby eliminate any basis upon which to grieve "the meaning, interpretation or application" of the agreement in relation to discipline. This effort should be rejected as contrary to the developments of the law of the work place over the last 50 years. Statistics show that nearly all collective bargaining agreements contain such provisions and, even in the absence of such provisions, arbitrators and the courts have been willing to infer their existence, the Union notes.

Village's Position on Discipline

The Village notes that the grievance procedure specifically defines a grievance as a claim alleging "a violation, misinterpretation, or misapplication of any of the expressed provisions of this agreement." On this basis it argues that if all reference to discipline is removed from the agreement, as proposed in its final offer, then the Union is wrong in its contention that there is a legal requirement that discipline be covered by the agreement's grievance and arbitration procedure. Further, the Village notes, the Illinois Education Labor Relations Board has held that the provisions of the IELRA do not require inclusion of any particular provisions, including a discipline or discharge provision and argues that the same result would no doubt obtain, under the parallel provisions of the IPLRA.

The Village would distinguish the *Springfield* case. According to the Village, Arbitrator Benn held that disciplinary matters must be subject to the grievance and arbitration procedure, because the issue of discipline was covered in the applicable collective bargaining agreement. The same was true in the decision of Arbitrator Briggs in the *Arlington Heights* case previously cited. In that case, the Union's final offer on management rights had been accepted and it included the provision requiring just cause in disciplinary matters. Here the question of whether the agreement should make any provision for just cause in disciplinary cases is a matter to be decided by the arbitrator. On this basis, the

Village argues that even though it disputes the interpretation of the law applied by Arbitrator Benn in the *Springfield* case, it is not necessary for the arbitrator in this proceeding to grapple with that issue.

On the merits of this issue, the Village advances five reasons why the Union's proposal should be rejected. First, it cites the decision of the First District Appellate Court in *Parisi v. Jenkins*, 236 Ill App 3rd 42 (1992). In that case, the Court found that a termination provision was not a proper subject for bargaining under the IPLRA, because Section 7 of the act only required bargaining with respect to matters "not specifically provided for in any other law or not specifically in violation of the provisions of any law." The court held that the statutory authority of the Board of Fire and Police Commissioners to determine cause for dismissal superseded the termination provision contained in the agreement in question. It follows, the Village argues, that it does not have the lawful authority to agree to submit disciplinary issues to an arbitrator under the grievance and arbitration provisions of the agreement. Thus, according to the Village, the arbitrator has no authority in this case other than to reject the Union's final offer on this issue.

Secondly, according to the Village, the Union has not carried its burden of proving a compelling need to change the *status quo*. While the Union argued at the hearing that the members of the fire and police commission were not as neutral as an arbitrator who is

hired by the parties, because its members were selected by the chief executive of the Village, it offered no proof that the commission was lacking in neutrality or expertise. Because the Union seeks to make a fundamental and dramatic change in the manner in which disciplinary appeals are handled and, by its own admission, is "seeking a breakthrough" on this issue, it should be required to justify the need for the proposed change. The Courts have held that there is a presumption of honesty and integrity that exists in the case of public officials serving as adjudicators and the Union presented no evidence to rebut that well established presumption. The arbitrator should, like the Courts, employ such a presumption and reject the Union's offer for this reason, the Village argues.

Third, the Village notes that the Union is seeking to change the status quo and argues that, in addition to showing a compelling justification for the proposed change, the Union should be required to offer a quid pro quo for the proposed change. According to the Village, the Union has not done so in this case.

Fourth, the Village argues that comparability data does not support the Union's proposal on this issue. The agreement with the firefighters union and the agreements with the police and fire command personnel, all specifically provide that disciplinary matters shall be subject to the jurisdiction of the fire and police commission. The Village also notes that nine of the ten comparable jurisdictions it relies upon provide that the terminal step for

disciplinary appeals is the fire and police commission (or personnel board in the case of Hanover Park). An analysis of the contract provisions discloses that they closely parallel the wording of the parties' prior agreement.

Finally, the Village argues that there are a number of potential problems with the option approach suggested by the Union, which justify rejection of its proposal. According to the Village, the proposal would encourage forum shopping; lead to different and possibly conflicting lines of precedent; possibly result in conflicting decisions arising out of an incident involving two or more employees; require the Village to handle disciplinary matters under two different sets of rules and regulations; and possibly require duplicate proceedings if two or more employees were involved in the same incident and chose different forums.

AMERICANS WITH DISABILITIES ACT

The prior agreement contained a non discrimination article (Article 3) which made no specific reference to disabilities. The tentative agreement reached on November 12, 1993, included other tentative agreements, including a tentative agreement dated April 19, 1993, adding a new section 3 to Article 3, which read as follows:

"It is agreed that the Village has the right to take any actions necessary in compliance with the requirements of the Americans With Disabilities Act."

In the negotiations which followed the rejection of the tentative agreement by the Union's membership, the parties

revisited this issue. Their final offers reflect slight variations in the wording, from that tentatively agreed to.

In its final offer, the Union proposes to word the new provision as follows:

"It is agreed that the Village has the right to take any actions necessary in compliance with the requirements of the Americans With Disabilities Act, provided the same are not inconsistent with the remaining terms of this agreement." [Emphasis Added]

In its final offer, the Village proposes to word this new provision as follows:

"It is agreed that the Village has the right to take any actions necessary to be in compliance with the requirements of the Americans With Disabilities Act." [Emphasis added]

Union's Position on the ADA Provision

According to the Union, if the ADA provision proposed by the Village is read literally, it could be taken to mean that the Village is free to take any action or fail to take any action, regardless of the provisions of the agreement, in order to comply with the provisions of the ADA. Because the ADA is a new law, it may be many years before the scope of its application, meaning and coverage will be known. As worded, the provision would give the Village the unfettered right to take those steps it deems necessary to comply with the ADA, without regard to the numerous provisions of the agreement, the Union argues. It was for this reason, that it has asked for a provision which limits the Village's right to take steps required by law to those which do not conflict with the

express provisions of the agreement.

The Union acknowledges that, in a colloquy at the hearing, the Village's attorney dispelled the Union's concerns about the proposal, when he acknowledged that disputes over whether it was necessary for the Village to take actions alleged to be in violation of the agreement in order to be in compliance with the ADA, would be grievable and subject to the arbitration provision. Recognizing that an arbitrator's ruling would not necessarily prevail if it was in conflict with a ruling by the EEOC or courts, the Union indicates in its arguments that the Village's proposal on this issue would be acceptable to the Union if it were made clear that disputes over whether a certain action or inaction by the Village was necessary to comply with the ADA would be subject to the jurisdiction of the grievance and arbitration procedure.

Village's Position on ADA Provision

According to the Village, its final offer is the same as the proposal included in the tentative agreements, except for the correction of an "obvious editorial omission" by adding the words "to be." The Village also notes that the Union did not dispute the Village's claim at the hearing that this was not a controversial issue at the time the parties reached tentative agreement and that it was not a reason why the membership rejected the overall tentative agreement. For these reasons, the Village asks that its final offer be adopted, without further amendment, in order to "maintain the integrity of the bargain reached by the parties

during negotiations," referred to by Arbitrator Briggs in the Arlington Heights case.

As additional support for its proposed wording, the Village cites the legislative history of the ADA and the content of the technical assistance manual developed by the EEOC for its implementation. The report of the house committee on labor and human resources had the following to say, with regard to conflicts between provisions of collective bargaining agreements and an employer's duty to provide reasonable accommodations:

"[such conflicts] may be avoided by insuring that agreements negotiated after the effective due date of this title contain a provision permitting the employer to take all actions necessary to comply with this legislation."

The technical assistance manual provides the same advice, based upon this legislative history.

The Village also points out that the police command agreement contains a similar provision and argues that this internal comparison constitutes an additional reason why its final offer on this issue should be accepted by the arbitrator.

Finally, the Village also points to the colloquy, wherein the Village's attorney acknowledged, in response to an inquiry from the Union's attorney, that if there was a dispute concerning whether an action was necessary in order to be in compliance with the ADA, it would be grievable and the Union could "get it to an arbitrator."

DISCUSSION

It would be clearly inappropriate, under the law, to treat the terms of the tentative agreement as controlling. As the Union points out, both parties understood that the terms of that agreement were tentative in the sense that it was subject to ratification by both parties. However, the Village does not argue that the terms of the tentative agreement should be treated as controlling herein. Instead, it argues that they should be given great weight. (Also, the terms of the parties' final offers differ somewhat from the terms of the tentative agreement.)

In dealing with this aspect of the dispute, a balance must be struck. On the one hand, it is important that the authority of the parties' respective bargaining teams not be unnecessarily undermined. Specifically, in the case of the Union, its bargaining team ought not be discouraged from exercising leadership. Some risk taking must occur on both sides, if voluntary collective bargaining is to work and arbitration avoided, where possible. Clearly, the Union's membership had the legal right to reject the proposed settlement. However, the Union's membership (and the Village board) must understand that, while it is easy to second guess their bargaining teams, whenever a tentative agreement is rejected, it undermines their authority and ability to achieve voluntary settlements.

On the other hand, serious consideration should be given to the stated or apparent reasons for either party's rejection of a

tentative agreement. If, for example, the evidence were to show that there was a significant misunderstanding as to the terms or implications of the settlement, those terms ought not be considered persuasive. Under those circumstances, there would be, in effect, no tentative agreement. However, if the terms are rejected, simply because of a belief that it might have been possible to "do a little better," the terms of the tentative agreement should be viewed as a valid indication of what the parties' own representatives considered to be reasonable and given some weight in the deliberations.

Viewed in this light, the terms of the tentative agreement in this case have some persuasive force. Many arbitrators have expressed the view that it is the function of interest arbitration to attempt to approximate the terms of agreement that the parties would have or should have reached themselves, had they been able to do so. The undersigned subscribes to this view, with one important proviso. The imposition of a statutory interest arbitration procedure itself has an impact on the relative bargaining strength of both parties. If it is a balanced procedure, it generally has a moderating influence on any preexisting imbalance. Therefore, the function of the arbitrator should be to try and approximate the agreement the parties would have or should have reached themselves, knowing that either party could force the impasse into an interest arbitration proceeding. The tentative agreement in this case has been considered in this way.

Here, the evidence shows, the Union's membership concluded that its bargaining team could have and should have done a little better through arbitration if necessary, by holding down the level of deductibles and (possibly) securing a slightly higher percentage increase in the third year. A review of the evidence and arguments, under the statutory criteria, fails to support that view.

Wages and Health Insurance

Internal comparisons strongly support the Village's final offer on the two most important economic issues, wages and health insurance. The other three protective service bargaining units have all accepted the wage increases offered for the first two years of the agreement. The firefighters bargaining unit -- with which there exists a clear, historic parity relationship -- has also accepted the proposed 3.25% increase in the third year.

All three protective service bargaining units have also agreed to the Village's proposal to increase the deductibles for the basic health insurance plan. The police and fire command units agreed to accept the increased deductible amounts as of January 1, 1993, and the firefighter bargaining unit has agreed to accept them in two stages, with the first stage already having been implemented on January 1, 1994. All other Village employees are also subject to the increased deductibles.

The available evidence of third year wage increases is not particularly persuasive. However, May 1, 1995, is not that far off

into the future and the Village makes a valid point about the value of establishing a three-year agreement.

While it is entirely possible that the 1995-1996 increases achieved by the parties' comparables, may average more than 3.25%, that increase should be viewed in perspective, as the third year of an agreement that contains many other elements. The agreement provides for a total of 10.25% increase in wages (uncompounded) over a three year period affected by a relatively low rate of inflation. While the City is asking for an increase in health insurance deductibles, it is also offering to improve some other benefits.

In the case of benefits like health insurance, internal comparisons can be particularly important because of the practical need to establish uniformity in the largest possible pool for reasons of fairness and to hold down overall costs. The Union argues that the Village has attempted to reverse an historic bargaining pattern by settling on this issue with the three other protective service bargaining units first and using those settlements to justify its proposal herein. However, the fact that this bargaining unit will be the last bargaining unit to settle could also be attributed to the Union's understandable reluctance to voluntarily agree to this change even though it is supported by external comparisons and the trend among the external comparisons.

It is the Union's view that the Village should not be permitted to make this change in the absence of a showing of

financial need. That argument ignores the evidence showing that health insurance costs were spiraling upward until the Village began to negotiate provisions designed to contain costs. Further, if the external comparisons supported a finding that other employers were providing more generous health insurance benefits, it would be inappropriate to deny those same increases to Village employees in the absence of proof of financial need. The question is whether the Village's proposal on health insurance is reasonable under the circumstances and a number of other factors help support a finding that it is.

While the rate of increase in insurance costs has slowed down, as the Union argues, that phenomenon is no doubt attributable, in part, to the cost containment measures already taken. The increase in deductibles, while not insubstantial, will not impact on those employees who elect to participate in an HMO. Even among those employees who do not, its average impact will be less than the six-tenths of one percent cited by the Union in its arguments, depending upon usage. Also, the Village has agreed to implement some "sweeteners" in the health insurance area, along with the other improvements agreed to like the increase in life insurance coverage.

Having concluded that the Village's final offer ought to be accepted on the two key economic issues and that those issues ought not be made subject to a reopener as proposed by the Union, it is appropriate to turn to the other two economic issues.

Retroactivity

While the issue of retroactivity is not as one sided as the Union argues, the Union's position on this issue is deemed to be more reasonable than the Village's position. If the Village's final offers on wages and health insurance are to be implemented -- and the undersigned concludes that they should be -- the increase in the health insurance deductibles will be implemented in two stages, prior to the implementation of the third year salary increase. Thus, even though the administrative burden of computing retroactive increases will no doubt be substantial,¹ the denial of full retroactivity would seem to impose an unnecessary burden and/or unjustified penalty on bargaining unit employees just when they are being asked to accept the increased deductibles. The lump sum approach proposed by the Village would greatly simplify its administrative burden, but it would do so at considerable cost to individual employees.

Life Insurance

The difference between the parties' final offers on life insurance is relatively minor. Under both final offers, term life insurance coverage will increase from \$30,000.00 to \$40,000.00. The only dispute is over the timing of the increase. Even so, this issue is not an easy one to resolve.

¹Under the 1990-1993 agreement, the retroactivity period was only a few weeks in length and, under the tentative agreement, the retroactivity period would have been only a little over six months long and involved one increase.

Important facts to consider include the fact that the terms of the tentative agreement would have required this benefit to be implemented on January 1, 1994. On the other hand, it should be noted, the increase will not take effect in the firefighter's bargaining unit until January 1, 1995 and increases will not be made for the command bargaining units until May 1, 1995. Even so, this is not a high cost benefit and it would be particularly unfortunate if a bargaining unit member were to die -- especially if the death were due to work related causes -- before the effective date of the change. Finally, as the Union notes in its arguments, a reasonable compromise solution to the life insurance issue would be to implement the increased coverage prospectively, effective upon issuance of this award or shortly thereafter. However, under the strictures of the statute, that is not possible.

Under these circumstances, the undersigned concludes that the most reasonable outcome on this issue is to select the Union's final offer. Doing so adds an element of balance to the overall outcome on the four economic issues. It will best serve the interests and welfare of the public for that reason and because it will foreclose any possibility that the family of a bargaining unit member might be denied the increased benefits as a result of the parties' inability to resolve this dispute sooner.

Discipline

Under the terms of the tentative agreement, all provisions of the 1990-1993 agreement were to be continued unchanged, except for

those provisions which were specifically changed by the tentative agreement itself. The article dealing with the authority of the fire and police commission was among those that would have remained unchanged.

As noted above, the Union now proposes to reverse the *status quo* with regard to the agreed to jurisdiction of the fire and police commission over disciplinary matters, specifically the grievability and arbitrability of such matters. Apparently fearful that the arbitrator in this proceeding might follow the reasoning of Arbitrator Benn in the Springfield case, the Village has also proposed to change the *status quo* by removing the other references to discipline from the agreement.

While the undersigned realizes that the Village's reason for proposing a change in the status quo, ironically, stems from a desire to preserve it, this issue must, therefore, be approached on the basis that neither party seeks to maintain the *status quo*. Under these circumstances, the undersigned believes that it is appropriate to consider whether the Union's proposal, the Village's proposal, or some compromise proposal (including the *status quo*) should be adopted as the most reasonable under the statutory criteria.

On its face, the Union's proposal offers to compromise and possibly obviate the legal questions surrounding this issue, by giving individual employees the right to choose which procedure to utilize when subjected to discipline. However, in addition to the

practical problems associated with the side-by-side approach cited by the Village in its arguments, this proposal does not, upon close inspection, clearly obviate all of the legal questions surrounding this issue.

The undersigned has carefully read the *Parisi* case cited by the Village in its arguments. The reasoning of the court in that case -- which gives careful consideration to the wording of Section 7 (but not Section 15) of the IPLRA -- is not easily ignored. The Village does not enjoy home rule status. In the absence of a legislative enactment or decision of the Supreme Court overturning the court's decision in *Parisi*, there is reason to believe that the Union's proposal herein may exceed the lawful authority of the Village. For this reason alone, the undersigned is unwilling to adopt the logic of the decision in the *Springfield* case, which was decided more than two years prior to the *Parisi* case. To do so could easily lead to expensive litigation, contrary to the interests and welfare of the public.

The Village's proposal would remove language from the agreement which, by itself, is not inconsistent with the language of Chapter 24, paragraph 10 - 2.1 - 17 of the *Illinois Revised Statutes*, describing the authority of the fire and police commission in disciplinary matters. Further, the inclusion of that language in the agreement is consistent with the overwhelming, if not universal, practice under collective bargaining agreements, i.e., providing that employees cannot be disciplined except for

just cause.

One obvious compromise position would be to maintain the *status quo* in all respects, by awarding that there be no change in the wording of the agreement in relation to this issue. Consideration has been given to this alternative, which finds support in the evidence concerning the handling of this issue by the comparables.

However, at this point, both parties have spent considerable time, effort and expense litigating the merits of this issue. In the view of the undersigned, except for the legal impediment, the Union makes a valid case for change. The statutory procedure was not established by voluntary agreement. Under a collective bargaining arrangement, employees ought not be required to accept a preexisting procedure for resolving disciplinary matters, if they lack confidence in that procedure and prefer the voluntary procedure which is nearly universal under collective bargaining agreements, i.e., arbitration.

For these reasons, the undersigned has given consideration to additional alternatives. One alternative would be to make all the decisions of the fire and police commission and all matters of discipline, not involving a proposed "removal of discharge," subject to the grievance and arbitration procedure. In the view of the undersigned, that alternative would give employees "two bites at the apple" and still involves too much ambiguity and legal uncertainty.

Another alternative would be to make the Union's proposed change contingent upon the enactment of legislation or the issuance of an Illinois Supreme Court opinion making it clear that the side-by-side procedure proposed by the Union would be lawful. That alternative would ignore the Village's objections to a side-by-side procedure and the possibility that any such legislation or court decision might authorize the negotiation of a substitute procedure, but not a side-by-side procedure such as that proposed by the Union.

A third alternative -- which is the best alternative in the view of the undersigned -- would be to include a provision in the agreement authorizing the use of the grievance and arbitration procedure to challenge disciplinary actions to the extent permitted by law and to require the parties to meet and negotiate over the manner in which that right will be exercised when and if a legislative enactment or decision of the Illinois Supreme Court unequivocally recognizes the legality of such an approach.

Americans With Disability Act

The other language issue and the last issue in dispute deals with the ADA. As both parties point out in their written arguments, there is no real dispute over the question of whether such a provision should be included in the agreement. The dispute, at this point, is over its intended effect.

The Union is justifiably concerned that the Village might rely upon this provision, as worded, to justify actions taken which are

contrary to the terms of the agreement, but might not in fact be required under the law. The Village concedes that, under the provision in question, the Union could grieve and, if need be, arbitrate such a claim and obtain an arbitrator's determination as to whether the disputed action was necessary to comply with the ADA. However, the Village notes, an award finding that an action was not necessary in order to comply with the ADA, might not be controlling, if the EEOC or courts came to a different conclusion. On that point, the Union does not disagree.

In order to avoid any future dispute over the agreed to intent and effect of this provision, the undersigned believes that it is appropriate to reword it, as set forth in the award.

For the above and foregoing reasons, the undersigned renders the following

AWARD

The parties' 1993-1996 collective bargaining agreement shall include:

1. The Village's final offer on wages;
2. The Union's final offer on retroactivity;
3. The Village's final offer on health insurance;
4. The Union's final offer on life insurance;
5. The following new paragraph to follow the existing

paragraph in Article 13:

If and when it is established, by legislative enactment or decision of the Illinois Supreme Court, that it is lawful to make disciplinary matters subject to the

grievance and arbitration procedure set forth in this agreement, employees shall have the right to utilize such procedures in a way which is consistent with such enactment or decision. Immediately after such enactment or decision, the parties shall meet for the purpose of reaching agreement on the manner in which that right shall be exercised. In the event the parties are unable to agree on any aspect of the procedures to be followed, that dispute shall be treated as a dispute over the interpretation and application of the grievance and arbitration procedure and may be submitted to arbitration.

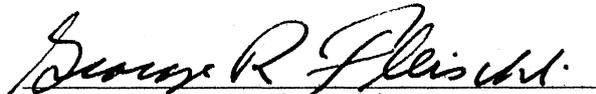
6. The following new Section 3:

Section 3 Americans With Disabilities Act

It is agreed that the Village has the right to take any actions necessary to be in compliance with the requirements of the Americans With Disabilities Act. Nothing herein is intended to preclude the Union from grieving or arbitrating any Village action which, in its view, violates the agreement and is unnecessary in order to comply with such act.

Dated at Madison, Wisconsin, this 15th day of September,

1994.


George R. Fleischli
Arbitrator