

S-MA-97-6

ILRB

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INTEREST ARBITRATION
OPINION AND AWARD

FEB 22 1999

In the Matter of Interest Arbitration

between

CITY OF ELMHURST

and

ELMHURST PROFESSIONAL
FIREFIGHTERS ASSOCIATION,
IAFF LOCAL 3541

Hearings Held

November 5 & 11, 1996

Elmhurst City Hall
209 N. York Street
Elmhurst, IL 60126

Arbitrator

Steven Briggs

Appearances

For the Union:

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For the Employer:

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BACKGROUND

The City of Elmhurst (the City; the Employer), located in Du Page County, Illinois, has a population of 42,680.¹ It operates a Fire Department (the Department) staffed by a Fire Chief, two Deputy Chiefs, three Captains, Six Lieutenants, and twenty-seven Firefighters. While Firefighters are required to be Emergency Medical Technicians (EMT's), the City contracts to an outside agency for paramedic services.

On December 31, 1992, all sworn full-time Firefighters and Lieutenants in the City became represented for collective bargaining purposes by the Elmhurst Professional Firefighters Association (the Union).² Negotiations for the parties' initial collective bargaining agreement began shortly thereafter, and culminated in an agreement which went into effect on January 6, 1994 and expired on April 30, 1996. It included a salary schedule of eight steps (A through H) for Firefighters and four steps (A through D) for Lieutenants. The initial agreement also provided for wage increases effective January 1 and May 1, 1994, for both classifications. Stipends for certain certifications (Firefighter III, EMT-A) were included as well, as was a provision for merit pay. Moreover, both Firefighters and Lieutenants received an annual stipend under the initial agreement, contingent upon the City maintaining its ISO 2 Fire Rating.³

The parties' initial collective bargaining agreement also included a salary reopener for the 1995-1996 fiscal year. Pursuant to that provision they negotiated a 3.5% increase across the salary schedule for both Firefighters and Lieutenants, carrying forward the same salary schedule step structure, salary add ons, and merit pay for Firefighters.⁴

Pursuant to the terms of Article XVII, Section 1 of the initial agreement the parties began negotiations for a successor agreement in early March, 1996. Bargaining sessions took place on March 7, March 15, April 8 and April 19. They reached a host of tentative agreements concerning work hours, overtime, sick and emergency leave, and fringe benefits.⁵

The parties jointly invoked mediation on May 14, 1996, pursuant to the protective service unit impasse procedures mandated by Section 14 of the Illinois Public Labor

¹ 1995 Special Census figure.

² On November 29, 1994 the Union's certification was amended to reflect its affiliation with the International Association of Firefighters.

³ Firefighter III, ISO and EMT pay are all part of the base salary and are used for overtime and pension purposes. Merit pay is made in December of each year, and is not included in the base salary.

⁴ Effective May 1, 1995, Firefighter III pay was increased from \$875 to \$900 and EMT pay was boosted from \$350 to \$400.

⁵ Included in the last category are tuition reimbursement and clothing allowance increases.

- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.⁶

THE ISSUES

The parties submitted four economic issues to interest arbitration:

- (1) Salaries and Other Compensation - includes Lieutenant and Firefighter salaries, step increments, certification and merit pay.
- (2) Retroactivity of Salary Increases.
- (3) Insurance - includes amount of deductible and amount of contribution; also includes City's contribution for Dental Plan.⁷
- (4) Term of Agreement.⁸

⁶ 5 ILCS 315/14(h).

⁷ In posthearing discussions the parties confirmed their agreement on the amount of the City's contribution for the Dental Plan. It is therefore not under consideration in this proceeding.

⁸ Both parties have proposed that the term of Agreement be May 1, 1996 - April 30, 1999.

Relations Act (the Act) and Section 1230.60 of the Illinois Public Labor Relations Board's Rules and Regulations. They met with a mediator on August 15, 1996. Mediation was unsuccessful.

Under the terms of Appendix A of their initial collective bargaining agreement the parties mutually selected Steven Briggs to conduct an interest arbitration hearing and issue a final and binding decision on the issues submitted for resolution. Hearings were conducted on November 5 and 11, 1996, during which time both parties were afforded full opportunity to present evidence and argument in support of their respective positions. The hearings were transcribed. On January 27, 1997 the parties' timely posthearing briefs were exchanged through the Arbitrator, at which time the record was closed.

RELEVANT STATUTORY CRITERIA

Section 14(h) of the Act provides:

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and the wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interest and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (A) In public employment in comparable communities.
 - (B) In private employment in comparable communities.

THE PARTIES' FINAL OFFERS

The Union's "Amended Final Last Offer Of Settlement" is attached hereto as Appendix A. The City's "Final Last Offers of Settlement Prior to Arbitration" are attached hereto as Appendix B. Changes in the latter were made by the City after the arbitration hearings, as will be explained in the section of this report entitled, "Economic Issue No. 1: Salaries and Other Compensation."

THE COMPARABLE JURISDICTIONS

City Position

The City believes that the following municipalities constitute the appropriate comparability pool:

Bensenville
Downers Grove
Hinsdale
Lombard
Naperville
Oak Brook
Villa Park
Wheaton

The reasoning set forth by the City to justify using the above jurisdictions for comparability purposes is summarized below:

1. They constitute all of the DuPage communities with paid fire departments. Admittedly, a small portion of Bolingbrook falls within DuPage County; it was excluded because it is primarily located inside Will County.
2. They are geographically proximate to and form a natural labor market with Elmhurst.
3. The Union's effort to exclude Bensenville, Hinsdale, Oak Brook, Naperville and Wheaton, simply because they do not meet its self-prescribed cut-off parameters, should be rejected.
4. The Union's exclusion of jurisdictions without collective bargaining agreements conflicts with the local labor market approach. And curiously, the Union included among its proposed comparables several communities which do not have collective bargaining agreements covering fire lieutenants.

5. In the City's first negotiations with the FOP in 1986 the parties relied exclusively on DuPage County communities for comparison purposes. In the subsequent FOP interest arbitration Arbitrator Peter Feuille gave primary weight to DuPage jurisdictions. The City and the SEIU have used DuPage communities as comparables. And in the 1993 Firefighter negotiations, while the Union did not specifically agree to use only DuPage communities, it used them to justify its salary proposal.

6. Since the City tries to maintain internal equity among its three bargaining units, tremendous problems would be created if one group of comparables were used for the FOP unit and another were used for the Firefighters.

7. The City's membership in several DuPage County organizations reflects its DuPage County orientation.

8. The Union's proposed comparability pool includes four non-DuPage municipalities. Moreover, its reliance on the number of matches in 40 separate columns of information from an Associated Firefighters of Illinois (AFFI) data base is flawed because (1) each column is weighted equally; and (2) there is significant overlap across the 40 fields, resulting in double-counting (e.g., EAV and its various components account for nine fields and part of a tenth).

9. The Union's decision to use "15" as the requisite number of matches is subjective, and it just happens to equal the number of matches for Bolingbrook. Perhaps if Firefighter salaries in Bolingbrook were lower, the Union would have used a cut-off of 20 matches instead.

10. The Union's approach to identifying communities for comparability purposes is overly mechanistic. Its exclusion of Bensenville, Oak Brook and Hinsdale, all of which adjoin Elmhurst, flies in the face of a local labor market analysis.

11. The Arbitrator should adopt the City's proposed comparables pool.

Union Position

The six communities in the Union's proposed comparability pool are listed below:

Lombard
Downers Grove
Hoffman Estates
Elk Grove Village
Park Ridge
Bolingbrook

The reasoning relied upon by the Union in proposing the above group may be summarized as follows:

1. The Union's approach to selecting comparable communities was methodical and objective. First, it identified those communities within the AFFI Northern District of Illinois data base which have a population of $\pm 25\%$ of Elmhurst's population. Next, the Union assessed each of them against forty relevant criteria, including square mileage, equalized assessed valuation (residential, commercial and industrial), per capita income, number of sworn fire department employees, *et al.* The Union objectively assigned equal weight (one point) to each factor, without emphasizing any particular criterion except the initial population determination. Next, communities more than fifteen miles from Elmhurst were excluded. The Union then used fifteen out of forty matches as the cut-off, as many of the communities with less than fifteen matches were either outside the fifteen-mile radius or were Fire Protection Districts.
2. Selected additional communities which met the aforementioned comparability tests were excluded. Wheaton, for example, is non-union. Its Firefighters have no opportunity to engage in collective bargaining or ability to invoke the statutory impasse procedures provided for in the Act.
3. The City's approach to comparable community selection is unduly narrow. It considered only whether communities are municipalities with a paid fire department and are located entirely or substantially within DuPage County.
4. The City's selection methodology is not rational. It relies primarily on Arbitrator Feuille's 1993 interest arbitration award for the Elmhurst FOP unit. Feuille gave "primary weight" to DuPage jurisdictions in that case because the parties had used them in the past for comparison purposes. In the present case, though, the parties have never agreed to rely solely upon DuPage County jurisdictions. During the 1996 negotiations leading to this interest arbitration proceeding, for example, the City included Bolingbrook --- a community it now contends is not substantially in DuPage County. The City also includes Wheaton

now, but attempted to exclude it in the proceeding before Arbitrator Feuille. Similarly, the City excluded Bensenville in that matter yet attempts to include it in the present proceeding.

5. While the City presented data on population, equalized assessed valuation, sales tax, family income and home values, it used such data merely to rank Elmhurst on those dimensions among its pre-selected DuPage County communities. The City concedes it did not use any cutoff parameters with respect to population, EAV, or sales tax.

6. Counsel for the City is currently using Elmhurst for comparability purposes in an Elk Grove Village interest arbitration proceeding. In a 1991 Arlington Heights interest arbitration, he also agreed that Elmhurst is comparable to Arlington Heights.

7. The Arbitrator should adopt the Union's proposed comparability pool.

Discussion

There are elements of rationality to both parties' positions on the comparability question. Both embrace the principle of geographic proximity, for example, and both in one fashion or another employ such traditional benchmarks as equalized assessed valuation, population and income to identify communities comparable to Elmhurst.

But an objective observer can also find fault with either party's approach to comparability selection. The Union's method appears statistically dazzling at first blush. It begins with a large universe of communities, then whittles away at it in step-wise fashion, settling ultimately on a six-member comparability pool. The Union's method seemingly weighs its 40 criteria equally, which emphasizes one of the attendant problems of statistical analysis: it attempts to attach weights to complex phenomena whose respective influence on real world situations cannot be precisely calibrated. For example, how much more or how much less an element of comparability is commercial EAV as opposed to industrial EAV, or is sales tax *vis-a-vis* family income? The Union's statistical exploration assumes initially that all of these measures are exactly equal as shapers of comparability. The Union's methodology also inordinately emphasizes EAV through reliance on nine measures of that construct, each considered a separate criterion in its copious data base.

The City's approach suffers from a few flaws as well. For example, its proposed comparables pool includes Wheaton and Bensenville, two jurisdictions the City

excluded in the 1993 FOP arbitration before Arbitrator Feuille. And as noted by Union Counsel, the City's proposed grouping excludes certain jurisdictions (Elk Grove Village and Arlington Heights) where in earlier interest arbitration proceedings Counsel for the City embraced Elmhurst as a comparable community.

The City of Elmhurst competes with other communities in the hiring and retention of qualified Firefighters and Lieutenants, and in doing so it faces certain geographical limits. Perfect mobility does not exist in the market for labor. That is why, as labor economists have told us for decades, organizational competition for human resources is geographically constrained. Both parties' offers seem to embrace this local labor market concept, as their respective suggested comparable communities all fall within a 15-mile radius of Elmhurst.

But within that radius the parties differ as to which communities are the more logical choices. A host of criteria are available for such selection decisions, and Illinois municipal employers and unions have used all of them, in varying mixes at different times, to support their proposed comparables in interest arbitration proceedings. The City of Elmhurst's exclusion of Bensenville and Wheaton in the 1993 FOP interest arbitration and its inclusion of those communities in the present proceeding is but one example. The experienced interest arbitrator cannot help but suspect over the years that both unions and employers attempt first to identify comparable communities with employment packages that suit their purposes in a particular case, then attempt next to find benchmark criteria which can be used to support having selected them. More globally, it has been shown time and again that rational parties soon learn to use institutionalized conflict resolution mechanisms to their own advantage. Accordingly, the Arbitrator in the present case views both parties' proposed comparability groupings with seasoned skepticism.

Given the context described in the foregoing paragraph, and in the interest of enhancing stability in the collective bargaining process, it is appropriate in interest arbitration to use comparables that have been used by the parties before. Moreover, in multi-bargaining unit jurisdictions such as Elmhurst, it is also generally advisable for stability purposes to adopt essentially similar if not the same comparables for each of them.

According to the uncontroverted testimony of City Advocate Theodore Clark, DuPage municipalities have been used for external comparability purposes in its negotiations concerning the police unit, the public works unit, and the fire unit. The City notes as well that in the 1993 FOP interest arbitration Arbitrator Feuille gave "primary weight" to DuPage jurisdictions, because that is what the parties had done in the past. The undersigned Arbitrator agrees with Arbitrator Feuille on that point. I agree also with the City's argument that internal equity problems could well result from using one group of comparables for one bargaining unit and

a substantially different group for another in the same jurisdiction. Moreover, there is no evidence in the record to indicate that the Cook County jurisdictions proposed as comparables by the Union have been referenced as comparable communities by these parties in the past.

Even though Bensenville was not included in the grouping considered in the earlier FOP interest arbitration, it is contiguous with Elmhurst and is located within DuPage County. Firefighters there are also unionized.⁹ For those reasons it seems a rather obvious choice for inclusion here. Wheaton is not contiguous to Elmhurst, but it is quite close, it is reflective of Elmhurst on the population dimension, and it was suggested by the FOP in the 1993 interest arbitration. And again, it was referenced by the parties in the negotiations leading to this proceeding.¹⁰ Hoffman Estates, Elk Grove Village, Park Ridge and Bolingbrook are appropriately excluded because they have apparently not been used in prior negotiations between the Union and the City, or between the City and the FOP or the SEIU. The Union has not presented evidence compelling enough to add them as new comparables here.

No comparability pool is perfect. For example, the fact that the City used Bolingbrook as a comparable in the negotiations for the contract under consideration here is somewhat troubling, in that it now believes Bolingbrook should be excluded because it is predominantly located in Will County. On balance, however, the Arbitrator is satisfied that the comparables pool advanced by the City better serves the stability of the collective bargaining process than does the one suggested by the Union. For the reasons advanced in the foregoing paragraphs, the Arbitrator has adopted the City's suggested communities as the appropriate comparability pool in this case.

⁹ That is not to say that non-unionized firefighter groups should be excluded. Such groups are comparable to Elmhurst Firefighters in the sense that Elmhurst and its surrounding communities with paid fire departments, whether they are unionized or not, compete with each other for human resources. The Arbitrator recognizes that due to the influence of strong advocacy and institutionalized impasse resolution procedures firefighters who are represented by unions may enjoy more favorable wage/benefit packages than do those who are not. Nevertheless, that factor does not insulate either group from the competitive dynamics of the labor market.

¹⁰ It is quite possible that during those talks the Union merely used Wheaton and certain other jurisdictions adopted by the City as a means to explain its proposals in terms the City could easily understand. The Arbitrator realizes that in doing so, the Union did not necessarily accept the validity of the City's comparables group. Still, the fact that the Union used Wheaton and other DuPage County municipalities as comparable jurisdictions during the bargaining process suggests that none of them were highly objectionable as comparables --- at least then.

ECONOMIC ISSUE NO. 1
SALARIES AND OTHER COMPENSATION

City Position

The City believes its final offer on salaries and other compensation should be selected by the Arbitrator. Its main arguments are summarized below:

1. The City's final offer retains the salary structure for Firefighters (Steps A through H) and Fire Lieutenants (Steps A through D), with the same percentage increases for those at each step (3.75% effective May 1, 1996; 4% effective May 1, 1997; and 3% effective May 1, 1998). The Union's final offer would change those structures drastically.
2. The salary structures embodied in the City's final offer were originally achieved in voluntary negotiations between the parties for their first contract (1993-1996). They continued the previously provided salary add-ons for certification as a Firefighter III, EMT, and for the City's retention of the ISO 2 Rating. The negotiated salary structures also set forth the same percentage increases for both Firefighters and Fire Lieutenants. Moreover, when the parties negotiated over the salary reopener for the 1995-1996 fiscal year, they increased the salary schedule by 3.5% for both of those classifications, carried forward the same salary schedule structures, and continued salary add-ons.
3. Interest arbitrators in Illinois have rather uniformly rejected efforts by employers and unions to change significantly the compensation plans they have previously agreed to in free collective bargaining.
4. The Union's proposal here would change the negotiated step plan drastically. In addition, it would eliminate merit and certification pay and establish significant amounts of longevity pay. There is not one iota of evidence in the record to suggest that such dramatic changes are justified.
5. Internal comparability considerations strongly justify acceptance of the City's final offer. The Union voluntarily agreed to the the same 3.5% increase for the 1995-1996 fiscal year that was earlier negotiated for the first year of the FOP 1995-1998 contract. Also, the City's final offer contains across-the-board increases effective May 1, 1996 (3.75%) and May 1, 1997 (4%) which are exactly the same as the across-the-board percentages voluntarily incorporated into the last two years of the FOP collective bargaining agreement for those two fiscal years. And the City's final offer of 3% across-the-board effective May 1, 1988 is exactly the same as that negotiated into its contract with the SEIU on behalf of public works employes. Finally, the longevity pay included in the Union's final offer is in direct conflict with the FOP and SEIU agreements, neither of which provide for it.

6. In its final salary offer the City addressed two of the Union's concerns by including the following provisions: (a) effective May 1, 1996, firefighters will advance beyond Step C up to and including Step G on their anniversary date rather than on November 1; and (b) effective May 1, 1998, Firefighters will advance to the top step on the salary schedule, Step H, after seven years rather than after ten years.
7. External comparability considerations strongly support acceptance of the City's final salary offer, which retains the same median maximum base salary ranking among the eight DuPage communities for Firefighter salaries, and a ranking of one step below the median for Fire Lieutenant salaries. When total compensation is considered, the City's ranking improves.
8. A majority of the DuPage comparables do not provide longevity pay; the two that do set forth amounts substantially less than the amounts proposed by the Union here.
9. The City's 3.75% salary offer effective May 1, 1996 is slightly higher than the average across-the-board salary adjustment of 3.71% among the DuPage comparables for which relevant salary information is available.
10. CPI data strongly support acceptance of the City's final salary offer. Using the rate of increase in that measure during the last year of the parties' most recent collective bargaining agreement (i.e., May, 1995 to May, 1996), the City's offer of 3.75% compares favorably to both the 2.9% increase in the All-Cities CPI-U Index and the 2.5% increase in the Chicago CPI-U Index.
11. The ease in attracting qualified applicants and the City's virtually non-existent voluntary turnover rate strongly support acceptance of its final salary offer.
12. Wage settlements across major collective bargaining contracts and all industries support adoption of the City's final salary offer.
13. The salary differential between Elmhurst's Police Officers and Firefighters and between its Police Sergeants and Fire Lieutenants was accepted by the parties during the last two rounds of salary negotiations. It should not be disturbed in this proceeding.
14. The salary differential between Police Officers and Firefighters and between Police Sergeants and Fire Lieutenants in Elmhurst is very similar to the differentials between their respective counterparts in the comparable DuPage jurisdictions.
15. The Arbitrator should adopt the City's final offer on the Salaries and Other Compensation issue.

Union Position

The Union believes its final offer on salaries is the more reasonable and should be adopted. Its principal arguments are summarized here:

1. The City's posthearing final offer obviously recognized the merit of the Union's position, since it was amended to allow employees effective May 1, 1996 to obtain step increases on their anniversary date of employment rather than on November 1. Moreover, that final offer proposes that effective May 1, 1988, firefighters will reach maximum pay in seven years instead of the current ten. Those two amendments do not go far enough, however.
2. The average number of years it takes firefighters to reach maximum pay across the DuPage comparables is 5.5 years. When both parties' comparables pools are considered in the aggregate, the average length of time it takes to achieve maximum pay is 5.7 years. Under the City's proposal, firefighters for the first two years of the contract would continue to take ten years to reach maximum pay; it would take them seven years effective May 1, 1998. Clearly, consideration of the external comparables does not support adoption of the City's final salary offer.
3. The internal comparables do not support selection of the City's final offer. It takes public works employees hired after the SEIU agreement was ratified only 4 1/2 years to receive maximum pay. And although the FOP contract contains Steps A-H as proposed by the City effective May 1, 1996 and 1997, it must be recognized that Patrol Officers covered by that contract receive substantially higher wages than do the Firefighters. Thus, based upon the lack of parity between police and firefighter wages, there is support for the Union's proposal to condense the current step system effective May 1, 1996.
4. The Union's final offer is below the average salaries received by firefighters in its proposed comparable jurisdictions.
5. The Union's proposal to replace the City's proposed stipends (EMT, FFIII and ISO) and merit pay with longevity pay is also supported by the external comparables. None of the Union's comparable communities provide stipends for Fire III certification and ISO. Moreover, none of the Union's comparables except Lombard provide pay for EMT certification. And with the exception of Downers Grove, none of the Union's comparables provide merit pay. Even using the City's comparability grouping, the Union's final offer on this dimension of salary is preferable. To illustrate, only one of that group (Lombard) provides a stipend for EMT certification, and only two of them (Bensenville and Lombard) provide one for Firefighter III certification. But consistent with the Union's final offer, four of the City's eight comparables provide longevity pay.

6. The Union's final salary offer for 1996 compares favorably with salaries across its suggested comparables. At year ten, for example it ranks Elmhurst Firefighters fifth out of seven, and below the average. The City's proposal places it sixth out of the seven communities. With the inclusion of stipends, the City's offer is \$46,762, or \$163 higher than the Union's final offer. However, at years fifteen and twenty the City's offer of \$46,762 ranks fifth out of the seven communities.

7. Considering the City's comparables, it is impossible to determine what Firefighters' starting salaries are in four of the eight jurisdictions for 1996. And using only the top step ignores about two-thirds of the bargaining unit. That is because as of May 1, 1996, only nine of the twenty-seven Firefighters had reached Step H. Moreover, although the City's final offer of \$44,452 at Step H places it fifth out of its nine-jurisdiction pool (including Elmhurst), the City concedes that it does not take Firefighters in other communities ten years to reach maximum pay. Thus, the City's final offer at Step G (\$42,724) is a more appropriate comparison point than is Step H. Such a comparison places Elmhurst Firefighters at eighth out of the nine communities, and well below the average pay of \$44,576 at that level.

8. Even using the City's comparables, the Union's final salary offer for 1996 is preferable. At five years, for example, the Union's proposed \$45,099 places Elmhurst fifth among the group, the same as does the City's proposal.

9. Both parties have proposed a 4% wage increase at each step effective May 1, 1997. At the starting salary, the Union's offer is lower than the City's, as it is at year 1 when, as the City wishes, ISO and EMT certification are added to base salary. The same is true for year 2. But for years 3, 4 and 5 the City's 1997 proposal reduces Elmhurst in rank among the Union's comparables.

10. Both parties propose a 3% increase at each step effective May 1, 1998. However, given the paucity of information in the record for salaries effective May 1, 1998, it is impossible to evaluate the parties' salary proposals for that period.

11. Both parties' final offers are consistent with the 4% salary increase granted to the FOP and SEIU bargaining units effective May 1, 1997, and with the 3% increase granted to them effective May 1, 1998.

12. The Union's final salary offer for Fire Lieutenants is also preferable, for largely the same reasons advanced above with respect to Firefighter salaries. And it should be recognized that effective May 1, 1996 Police Sergeants received a maximum salary of \$63,127 --- almost \$10,000 more than the \$53,897 (including add-ons) received by Fire Lieutenants.

13. The Consumer Price Index (CPI) does not assist in resolving the instant dispute, because both the Union's and the City's salary proposals exceed it. And

historically, the City has granted wage increases between 1% and 3% above that index. Thus, the Arbitrator should give the CPI little or no weight in this proceeding.

14. Consideration of overall compensation and benefits favors adoption of the Union's salary offer. Elmhurst firefighters receive the least number of Kelly Days and holidays among the Union's proposed comparables. In addition, it takes Local 3541 bargaining unit employees twenty-three years of service to become eligible for thirteen shift days of vacation. Many of the Union's proposed comparables provide for that many shift days of vacation several years earlier. And while the City focused on sick leave buy back provisions for its comparable jurisdictions, without knowing the number of sick days allowed in each the City's argument on that point is meaningless.

15. The City's ability to attract firefighter applicants does not conclusively demonstrate that its overall compensation package is competitive. For example, there is no indication of how many persons on the eligibility list, if offered a position, would accept. Many on the list may have taken firefighter examinations in multiple communities. And the fact that the City has attracted firefighters from other jurisdictions is of little use since the record does not contain the reasons prompting them to come over to Elmhurst. Besides, the ability to attract applicants is but one minor fact in the City's favor. It does not overcome the larger inadequacies of the City's proposal.

16. The Union's final offer on the Salaries and Other Compensation issue should be adopted.

Discussion

The Union's final offer compresses the salary schedule in such a way that instead of taking ten years under the current system for a Firefighter to achieve the maximum step, it would take but five. The Union's offer also eliminates merit pay and certification pay and adds the concept of longevity pay to the Elmhurst Firefighter and Fire Lieutenant salary schedules. Moreover, the Union's offer alters internal salary relationships between Firefighters and Fire Lieutenants. It changes the salary relationship between the Fire and Police Departments as well. In the aggregate, such changes represent a quantum departure from the negotiated status quo. Absent compelling circumstances, interest arbitrators are unwilling to sanction such giant strides away from the salary structures and internal equity arrangements the parties themselves hammered out at the bargaining table.

Table 1 on the following page was constructed to juxtapose Elmhurst against the

comparables, in an effort to estimate the need for some of the changes embodied in the Union's salary offer:

Table 1
Salary Structures/Elements Across the Comparables

<u>Jurisdiction</u>	<u>Steps to Max.</u>		<u>Merit Pay</u>	<u>Cert. Pay</u>	<u>Longevity</u>
	(FF's)	(FL's)			
Bensenville	7	3	yes	yes	no
Downers Grove	6	3	yes*	no	no
Elmhurst					
City Offer	8	4	yes	yes	no
Union Offer	7	4	no	no	yes
Hinsdale	-	-	no	no	yes
Lombard	6	-	no	yes	no
Naperville	-	-	no	no	no
Oak Brook	-	-	no	no	yes
Villa Park	6	3	no	no	yes
Wheaton	-	-	no	no	no

* = Employees beyond the end of their salary range are eligible for an annual \$700 performance bonus.

- = Information not found in the arbitration record.

Sources: City Exhibits 45-47; Union Exhibit 4; applicable collective bargaining agreements.

Table 1 illustrates the reasonableness of both parties' offers with regard to the number of steps in the salary structures for Firefighters and Fire Lieutenants. With regard to merit pay and certification pay, the Union's offer seems more reflective of the norm. On the other hand, the City's final offer is more in line with comparable jurisdictions by not providing longevity pay. Overall, the external comparables do not provide sufficient support for the Union's proposed deletion of merit and certification pay, and its suggested inclusion of longevity pay. The status quo for Elmhurst Firefighters and Fire Lieutenants on those three elements of the compensation package was negotiated between the parties themselves, and the record before me does not justify changing it.

Of course, if the City's final salary offer does not provide the dollars necessary to retain its competitive position across comparable communities, the Arbitrator might be persuaded to adopt the Union's offer in spite of the foregoing conclusion. Table 2 was constructed to explore that question. It includes both starting base salaries and maximum base salaries because Elmhurst Firefighters and Fire Lieutenants are currently dispersed across several steps in their salary structures.

Table 2
Firefighter and Fire Lieutenant Salary Minima & Maxima
as of June 1, 1996

<u>Jurisdiction</u>	<u>FF Min.</u>	<u>FF Max.</u>	<u>FL Min.</u>	<u>FL Max</u>
Hinsdale	-	47,013	-	59,201
Villa Park	33,486	46,744	51,163	51,881
Downers Grove	32,662	45,614	50,950	54,163
Oak Brook	-	44,478*	-	55,414
Elmhurst				
City Offer	32,863	44,552	47,157	53,222
Union Offer	32,600	45,099	47,820	55,111
Lombard	31,963	44,199	-	57,592
Naperville	-	43,624	-	58,342
Bensenville	31,888	43,152	47,074	51,182
Wheaton	-	41,780	-	52,627

* = Eff. 1/1/95. In negotiations now for first collective bargaining agreement.

- = Information not found in the arbitration record.

Sources: City Exhibits 39, 43; Joint Exhibit 5; applicable contracts.

Table 2 illustrates several interesting features of the parties' respective final offers. First, they are not that far apart in absolute dollars. Second, both of them appear to be within the broad bounds of reasonableness as compared to other jurisdictions in the pool. Third, at the maximum base salary step, the City's final offer places Firefighters in the rank of fifth out of nine; the Union's offer places them fourth. Thus, the City's final offer retains the ranking its Firefighters achieved at the bargaining table during the 1995 reopener negotiations. Adoption of the Union's final offer in this proceeding would elevate that ranking. The City's final offer for

Fire Lieutenants situates them sixth among the comparables at the maximum base salary level for fiscal year 1996 (the current year as of this writing), thereby retaining the rank they occupied as a result of voluntary negotiations between the parties. The Union's final offer would elevate them to the fifth highest, thereby enhancing through arbitration the ranking they achieved at the bargaining table. The Arbitrator finds no compelling reasons to do so.¹¹

The Arbitrator has also considered the number of years it takes firefighters to achieve maximum base pay across the comparable jurisdictions. The results of that comparison are displayed in Table 3.

Table 3
Years to Maximum Base Salary

Hinsdale	-	seven years
Naperville	-	seven years
Elmhurst(City Offer)	-	ten/seven years ¹²
(Union Offer)	-	five years
Bensenville	-	six years
Downers Grove	-	five years
Lombard	-	five years
Villa Park	-	five years
Wheaton	-	five years
Oak Brook	-	four years

The City's Amended Last Offer of Settlement reduced the amount of time required to reach the maximum base salary from ten years to seven, thereby bringing the City's offer more in line with the comparables. The Union's final offer contains a five-year time line for that purpose, making it closer to the average across comparable jurisdictions (5.5 years). Thus, on this particular dimension of the parties' overall salary offers, the Union's offer seems slightly preferable.

When considered against the salary packages for firefighters and fire lieutenants across the external comparables, the City's final offer seems to be the more reasonable. It retains the City's negotiated ranking at benchmark levels. And significantly, the City's final offer preserves the salary structure embraced by the parties themselves in two rounds of salary negotiations (i.e., the negotiations for

¹¹ A similar analysis for starting salaries was not done due to the paucity of data in the record on that cell of the salary schedules across comparable communities. Moreover, analysis of the parties' final offers in the comparability pool context for the second and third years of the contract was not meaningful because of the limited external settlement data available.

¹² The City's Amended Final Offer provides for a ten-year progression to maximum pay until May 1, 1998, when it would be reduced to seven years.

their initial contract and those for its salary reopener)

The impact of the Union's final salary offer on the parity relationship between Elmhurst's Firefighters and its Police Officers also supports adoption of the City's offer. As noted by the Union, there is currently a wage disparity between these two groups. Police Officers make more at every step, and have since at least 1992. Table 4 illustrates the differentials effective May 1, 1995, all of which were negotiated by the parties themselves. It also shows the differentials that would be effective May 1, 1996 under both parties' final offers:

Table 4
Salary Differentials Between Elmhurst
Firefighters and Police Officers

Step	5/1/95 Salaries		Difference	5/1/96 Salaries (City Offer)			5/1/96 Salaries (Union Offer)		
	(Police)	(Fire)		(Police)	(Fire)	(Difference)	(Police)	(Fire)	(Difference)
A	32,363	31,675	688	33,577	32,863	714	33,577	32,600	977
B	35,682	33,261	2,421	37,020	34,508	2,512	37,020	34,424	2,596
C	37,537	34,844	2,693	38,945	36,151	2,794	38,945	36,335	2,610
D	39,076	36,428	2,648	40,541	37,794	2,747	40,541	38,200	2,341
E	40,776	38,011	2,765	42,305	39,436	2,869	42,305	40,481	1,824
F	42,474	39,597	2,877	44,067	41,082	2,985	44,067	42,727	1,340
G	44,174	41,180	2,994	45,831	42,724	3,107	45,831	45,099	732
H	46,382	42,845	3,537	48,121	44,452	3,669	48,121	*	*

* = Union's offer includes different longevity payments at various seniority levels.

Sources: The parties' final offers; 1995-1998 Elmhurst FOP Agreement.

As illustrated in Table 4, the City's final salary offer more closely approximates the previously negotiated differentials between Elmhurst Firefighters and Police Officers, especially at Steps C and higher. The Union's salary offer, with its high end loading, radically changes the negotiated equity relationship between Firefighter and Police Officer salaries in higher-paid salary structure cells. It would not be appropriate for the Arbitrator to sanction that change, absent compelling evidence to do so, and the record before me does not contain such evidence.

The Arbitrator recognizes that the philosophy behind the City's final offer, if carried to its logical conclusion over many ensuing years, would cause the salaries of Elmhurst Firefighters to fall farther and farther behind those of its Police Officers. That is, assigning each group the same percentage increases at each step each year would favor Police Officers over the long term because such increases would be calculated on higher base salaries than those of Firefighters positioned similarly on the salary grid. At some point, the balance will need to be redressed. But that issue

is best resolved between the parties themselves through free collective bargaining.

The City's Final Last Offer of Settlement Prior to Arbitration allowed for progression to the next step on the salary schedule effective November 1. That provision was subsequently modified by the City to generate advancement to the next step on employee anniversary dates. The modification caused the City's offer to match the Union's on that point; hence, it is not of any significance in the outcome of this proceeding.

The Arbitrator has concluded that the City's final offer more closely carries forward the negotiated relationships among the internal comparables than does the Union's. The across-the-board salary increases of 3.75% effective May 1, 1996 and 4% effective May 1, 1997 mirror exactly the negotiated increases incorporated in the FOP agreement for those same periods. That parity relationship is a continuation of the one the Union voluntarily agreed to during the 1995 reopener negotiations (i.e., the 3.5 % across-the-board increase for the 1995-1996 fiscal year matched the one negotiated for the first year of the 1995-1998 FOP agreement). In addition, the City's proposed 3% across-the-board increase effective May 1, 1998 is the same as that contained in the third year of the SEIU Public Works contract. And finally, since neither the FOP nor the SEIU agreement includes longevity pay, the City's final offer in this proceeding more closely adheres to the status quo than does the Union's.

Comparison of the parties' respective salary offers against the cost of living statutory criterion demonstrates that neither of them would cause Elmhurst Firefighters and Fire Lieutenants to lose purchasing power. The City's final offer more closely adheres to cost of living increases as measured by either the CPI-U all cities index or the CPI-U Chicago index for the period between May, 1995 and May, 1996 than does the Union's. The former increased by 2.9%; the latter by only 2.5%. The City's proposed across-the-board increase of 3.75% effective May 1, 1996 therefore seems more reasonable than does the Union's, which sets forth increases from 2.92% to 5.26% for Firefighters and from 5.2% to 7.43% for Fire Lieutenants, depending on their individual positions on the Union's revised salary schedule.¹³

For the second and third years of the contract the parties' respective salary offers are identical at 4% effective May 1, 1997 and 3% effective May 1, 1998. It is always difficult to project what will happen to the cost of living in the future. As it may turn out, the 3% increase the parties both propose for the third year of the agreement could cause a loss in purchasing power for unit members. For that reason, the City's revised final offer seems preferable to the Union's final offer, in that it includes a conditional salary reopener (dollar amounts only, as applied to the existing schedule) if the CPI-W (U.S. city average) increases more than 6% between March, 1997 and April, 1998. The Union's final offer does not include a reopener on

¹³ Percentage figures computed from Joint Exhibit 5.

the salary issue.

The overall compensation criterion is difficult to apply in this case, largely because it has so many components and neither party built many of them into its exhibits. The City argues correctly that when salary add-ons are considered, its final offer maintains unit members' relative rankings across the comparables pool. And unit members in Elmhurst receive 9 paid holidays per year, as do their counterparts in Lombard and Bensenville. Downers Grove Firefighters and Fire Lieutenants receive 10. Firefighters in Villa Park receive only 8 designated holidays.¹⁴ Thus, Elmhurst Firefighters and Fire Lieutenants seem well-compensated on that dimension of overall compensation as well. A similar conclusion is reached from analysis of the respective vacation schedules across the unionized comparables.

The above analysis includes some of the major elements of overall compensation.¹⁵ Consideration of each and every additional and less significant one (e.g., call-in pay, educational reimbursement, etc.) would not provide any incremental clarity; indeed, it would most likely muddy the water. Suffice it to say that Elmhurst Firefighters' and Fire Lieutenants' overall compensation is generally competitive with the overall compensation received by their counterparts across comparable jurisdictions. Thus, there does not seem to be a need to boost the salary element to the extent sought by the Union in this proceeding.

Finally, the Arbitrator has compared the parties' respective salary offers to negotiated wage data as reported by the Bureau of Labor Statistics and the Bureau of National Affairs. Both of them provide percentage increases greater than the average and median increases reported by those organizations for 1995 and 1996. The Arbitrator concludes from these data that neither of the parties' offers provides for unreasonably low wage increases, while the Union's seems high, especially with regard to the increases it would provide effective May 1, 1996 for Firefighters and Fire Lieutenants at higher steps in the revised schedule.¹⁶

Based upon consideration of the statutory criteria, as explained in this and the preceding pages, the Arbitrator is inclined toward adopting the City's final offer on the salary issue. Strengthening that conclusion is the fact that the City has had no trouble attracting and retaining Firefighters under the current salary schedule.

¹⁴ The Arbitrator found no comparable data in the record for Hinsdale, Oak Brook, Naperville or Wheaton.

¹⁵ Health insurance will be discussed in a subsequent section of this report.

¹⁶ As noted earlier, the increase for Firefighters at the Union's 5th year step is 5.26%; for Fire Lieutenants at the 2nd year step it is 7.43%.

ECONOMIC ISSUE NO. 2
RETROACTIVITY OF SALARY INCREASES

City Position

The City's position on this issue may be summarized as follows:

1. Under the Act, increases in rates of compensation may not be retroactive to the start of a fiscal year unless mediation is requested 30 days prior to the expiration date of an existing contract (5 ILCS 315/14(a) and (j)). Since the Union did not invoke mediation prior to the 1996-97 fiscal year in this case, the Arbitrator has no authority under the statute to grant salary increases retroactive to May 1, 1996. However, the City stated on the record that it would voluntarily waive its right to object to such a retroactive increase, and it stipulated that the Arbitrator has the authority to award retroactive compensation back to May 1, 1996.
2. The Arbitrator should restrict the scope of any retroactive salary increase to exclude overtime hours. That is what the parties did in their first collective bargaining agreement. Instead of providing an increase retroactive to May 1, 1993, they agreed to a lump sum payment, thereby avoiding for the City the time and expense of going back and recomputing overtime for all hours worked during the relevant period.
3. The City did not include a lump sum payment in its final offer here because it did not know when the Award might be issued and, as a result, was not in a position to know the period of time that would be encompassed by such a lump sum payment.
4. Acceptance of the Union's final offer on retroactivity would be administratively burdensome to the City, as it would have to go back nearly twelve months to recompute retroactivity on overtime hours.
5. The Arbitrator should accept the City's final offer on this issue.

Union Position

The Union believes that retroactivity should apply to overtime hours. Its arguments in that regard are summarized below:

1. Employees in nearly all of the Union's comparables have received overtime pay since May 1, 1996. Similarly, four of the City's eight comparables (Lombard, Downers Grove, Bensenville and Villa Park) had a contract in place providing

overtime pay consistent with the wage rate effective May 1, 1996. The record does not contain specific evidence concerning the receipt of retroactive wages effective May 1, 1996 in Hinsdale, Naperville, Oak Brook and Wheaton, but it does show that with the exception of the recently organized Oak Brook, the other three communities are on a May 1, 1996 fiscal year. Thus, employees in those Fire Departments must have received overtime pay at the rates effective May 1, 1996.

2. This Arbitrator has in the past supported a union's claim that retroactive salary increases should be applied to overtime hours worked. (Village of Arlington Heights and Arlington Heights Firefighters Association, Local 3105, IAFF, S-MA-88-89 [1991]).

3. The fact that the parties agreed to a lump sum payment for fiscal year 1993, in bargaining over an initial contract, hardly rises to the level of a practice or precedent to which the Arbitrator should defer.

4. FOP employees received time and one-half for all overtime hours worked effective May 1, 1996. Firefighters and Fire Lieutenants in Elmhurst should be treated in like fashion, as this Arbitrator has previously found in another case. (City of Elgin and Metropolitan Police Association, Unit #54, S-MA-94-94 [1995]).

5. The Arbitrator should accept the Union's final offer on this issue.

Discussion

The Arbitrator is inclined to adopt the Union's final offer on the issue of retroactivity. First, the parties have essentially agreed that some salary increase is appropriate for the period beginning May 1, 1996. They just don't agree on what it should be. In other words, they agree that without some retroactive salary increase for the relevant period, Elmhurst Firefighters and Fire Lieutenants were under compensated. The Arbitrator finds no compelling reason to restrict such retroactive salary increases by the exclusion of overtime hours. After all, Article VII of the current contract reflects the parties' agreement that overtime hours are worth one and one-half times the regular straight time hourly rate. If that rate is subject to a retroactive increase, then pay for overtime hours worked should be raised accordingly. The following quote from my Award in Arlington Heights is illustrative:

The Firefighters who would receive the benefit of recalculated overtime payments have already worked those overtime hours. They were paid at 1 1/2 times their straight-time rate for such work. But now the parties have agreed . . . that the work they performed on a

straight-time basis is worth more than what they were paid for it. That is, they were paid an outdated rate. It therefore seems reasonable to conclude that the rates at which they were paid for their overtime work were also outdated. Those Firefighters who worked overtime during the relevant period should be paid at the appropriate rate --- one and one-half times the newly established straight-time rates . . .

The City argues, though, that the task of applying salary increases retroactively to overtime hours worked would be administratively burdensome. While that may be true, the fact remains that Firefighters and Fire Lieutenants who worked overtime hours during the relevant period were paid for them at 1 1/2 times a rate now acknowledged by both parties to be outdated. Those people worked the overtime hours faithfully, and the administrative difficulty of calculating retroactive increases for such hours is not a compelling reason to conclude that they should not receive appropriate pay for having done so.

The Arbitrator understands full well that in negotiations for their first collective bargaining agreement the parties chose to provide a lump sum increase in lieu of calculating retroactive increases for overtime hours worked. But that does not mean that the Union somehow waived its right to seek retroactivity on overtime hours from that point forward.

The Arbitrator strongly favors the Union's final offer on the retroactivity issue.

ECONOMIC ISSUE NO. 3 HEALTH INSURANCE

City Position

The City's final offer to revise the current Article XI, Section 1 is quoted here:

Section 1. Health Benefit Plan. The health benefit plan in effect when this Agreement is ratified shall be continued during the term of this Agreement; provided, however, that effective January 1, 1997, the maximum deductible for family coverage (three or more persons covered) shall be increased from \$400 to \$600; and provided further, the City reserves the right to change insurance carriers, or to self-insure as it deems appropriate, as long as the new basic coverage and basic benefits are equivalent to those which predated this Agreement. Employees may elect single or dependent coverage in the City's health benefit plan during the enrollment period established by

the City. Effective January 1, 1997 (and retroactive to said date), the employee shall pay ten percent (10%) of the cost of single or family coverage under the City's self-insured Comprehensive Health Plan through payroll deduction and the City shall pay the balance of the cost; provided, however, that the percentage increase in the amount paid by the employee for either single or family coverage shall be capped at not more than 15% in any given year.

Notwithstanding the foregoing, employees shall not be required to pay a higher percentage of the premium or cost than the unrepresented employees of the Fire Department.¹⁷

The City's arguments in support of adopting the above revised language may be summarized as follows:

1. The City's final offer would increase the maximum deductible for family coverage from \$400 to \$600, effective January 1, 1997. It would also increase employee contributions for single or family coverage from 5% to 10%, capping the percentage increase in any given year at 15%. With but one exception, these two changes would bring the IAFF unit in line with the health insurance program in place for all other City employees. The exception is the \$400 family coverage deductible in the SEIU contract. All other City employees are currently paying 10% of the cost of either single or family coverage and have a \$600 deductible for the latter.
2. Interest arbitrators in Illinois have recognized the desirability of insurance benefit uniformity.
3. In the interest of fairness to all City employees, the Arbitrator should adopt the City's final offer on this issue.
4. The City acknowledges that its health insurance costs are down year to date. But good claims experience in one year may be more than offset by bad claims experience in another. Catastrophic health problems are impossible to predict. Thus, it makes no sense to base the decision regarding this issue on claims experience for a partial year.
5. If health insurance premiums decline in the future, employees will benefit since their contribution is stated as a percent of premium cost.
6. The City has a Section 125 Plan which permits employees to tax shelter the

¹⁷ Prior to the submission of their posthearing briefs the parties reached agreement on Article XI, Section 2 (Dental Plan).

amount that they contribute toward the cost of health insurance. As a result, the net effect of increasing the contribution rate to 10% will be lessened by anywhere from 25% to 35%, depending on each employee's marginal tax bracket. Thus, while the increase in monthly cost for single and family coverage will be \$11.14 and \$27.84 respectively, the net after-tax effect on monthly take home pay will be somewhere around \$7.46 for single coverage and \$18.65 for family coverage (assuming an average marginal tax rate of 33%).

7. The parties' agreement on the Dental Plan (Article XI, Section 2) increases the amount the City contributes per month, bringing the IAFF unit in line with the Dental Plan in place for all other City employees. Since the Union is more than willing to accept equal treatment with those employees for the Dental Plan, it should not be allowed to pay less than they do for the Health Benefit Plan.

8. The City's final offer is supported by external comparability data as well. Its plan costs a good deal more monthly than the average across the comparables for health insurance family coverage (\$556.84 as opposed to \$464.44), and under the City's final offer Firefighters and Fire Lieutenants would pay only \$55.68 for such coverage. That figure is significantly less than the \$94.05 paid by their counterparts in Bensenville and slightly less than the \$59.46 paid by firefighters in Villa Park. Moreover, a 10% employee contribution is only slightly higher than the 8.2% average paid by employees across the comparable communities.

9. Adoption of the Union's final offer would mean that Elmhurst Firefighters would pay only \$27.84 monthly for family coverage, making them the lowest of any of the six DuPage communities where firefighters contribute toward the cost of family coverage. A 5% contribution rate would also be the lowest found in any of those communities.

10. According to the Daily Labor Report article made a part of the record in this case, the average monthly employee contribution across the U.S. generally in 1993 was \$31.55 for employee-only coverage and \$107.42 for family coverage. Both of those amounts are significantly higher than what employees would pay for such coverage under the City's final offer.

11. The Arbitrator should adopt the City's final offer on the health insurance issue.

Union Position

The Union's final offer retains the negotiated status quo on this issue. Its principal arguments are summarized below:

1. The City's final offer changes the existing health insurance plan in three ways: (a) the employee contribution would be doubled --- from 5% to 10%; (b) the maximum deductible for family coverage would be increased by 50% --- from \$400 to \$600; and (c) a third deductible category of \$400 would be created for single employees with only one dependent. This third change results from the fact that the \$600 deductible for family coverage in the City's final offer covers "three or more persons."

2. Since the City is attempting to change the status quo on this issue, it must demonstrate that it has suffered a sufficient increase in insurance costs to warrant seeking additional assistance from its employees.

3. In Village of Oak Brook and Teamsters Local 714, S-MA-96-73 (Benn, 1996), Arbitrator Edward Benn rejected the Village's offer to institute changes in the existing health insurance plan. He noted in doing so that there was no evidence the Village had suffered a recent adverse experience regarding health insurance costs. The situation in the present case parallels that faced by Arbitrator Benn. The City presented no evidence that insurance costs have increased; they have actually decreased. Monthly aggregate claims paid have fallen each year, from \$149,938 in 1993 to only \$61,892 in 1996 --- an overall decline of more than 50%. Thus, there is no rational basis for accepting the City's final offer on this issue.

4. The external comparables do not support adoption of the City's offer. Four of the City's suggested comparables require no employee contribution at all for single coverage, and all but Bensenville require a smaller contribution than the one sought by the City. Moreover, six of the eight comparables require a percentage contribution equal to or less than the 5% Elmhurst Firefighters and Fire Lieutenants currently pay. Similar results are found with respect to the cost of family coverage.

5. The City failed to specify the number of employees who would qualify for the new (three or more persons) family coverage it proposed. It simply indicated that 31 of the 38 unit employees presently have family coverage. The missing information is a significant factor in assessing the reasonableness of the City's offer to change the status quo. Moreover, the City failed to ascertain whether any of its proposed comparables are paying contributions on a Section 125 pre-tax basis.

6. The internal comparables do not support the City's proposed changes. It is true that the FOP agreed to increase the deductible for family coverage (three or more persons covered) to \$600 and to increase the employee contribution from 5%

to 10%; however, most Police Officer wages in Elmhurst are 7-8% higher than the corresponding Firefighter wages. Thus, strict internal comparability between those two groups with regard to health insurance costs is not reasonable. The City recognized that principle when due to the wage disparity between its Police Officers and SEIU unit employees, it agreed at the bargaining table not to require both a higher deductible and greater employee contribution for the latter.

7. The City's final offer excludes the HMO language contained in the current agreement and in the FOP agreement. The record contains no justification for such an exclusion.

8. The cost-of-living factor does not support the 50% increase in employee contributions proposed by the City.

9. The City announced at an insurance meeting subsequent to the hearing in this matter that the insurance increases it proposes for the IAFF unit will not go into effect for non-bargaining unit Fire Department employees until May 1, 1997.

10. The Arbitrator should adopt the Union's final offer on the health insurance issue.

Discussion

The City argues that heavy if not exclusive emphasis should be placed on the internal comparability factor. It cites other interest arbitration awards, including one issued by the undersigned,¹⁸ where arbitrators have given primary weight to the internal comparables in upholding consistency of employee contributions toward benefit costs. That principle has been cited time and again as a circumstance compelling enough to justify changing the status quo with regard to a bargaining unit out of sync with others and with non-represented employees in a particular jurisdiction.¹⁹

It is important to note, however, that interest arbitrators have not given exclusive, controlling weight to the internal comparability factor on benefit cost issues. For example, in Will County Arbitrator George Fleischli reasoned as follows:

¹⁸ City of Elgin and Metropolitan Police Association, Unit #54 (Briggs, 1995).

¹⁹ City of Chicago and FOP Lodge No. 7 (Roumell, 1993); City of Elmhurst and FOP Lodge No. 81 (Feuille, 1993); Will County and Sheriff of Will County, ISLRB Case No. S-MA-95-14 (Fleischli, 1996).

Where the evidence establishes that an employer has, through negotiations and otherwise, established and maintained a consistent practice with regard to certain fringe benefits, such as health insurance, it takes very compelling evidence in the form of external comparisons, to justify a deviation from that practice. There is no such external evidence in this case.²⁰

In City of Elgin the undersigned Arbitrator also acknowledged the role of the external comparability factor on the health insurance issue where, as here, the employer argued that internal consistency supported a change in the status quo for a particular bargaining unit. Interestingly, Council for the City in this proceeding relied in part on external comparables in City of Elgin to support the employer's attempt to change the status quo. The undersigned Arbitrator also believes it is appropriate to consider both the internal and external comparability factors here, though giving primary weight to the former.

Adoption of the City's final offer would not bring the IAFF unit completely parallel to other Elmhurst employee groups on the health insurance issue. To illustrate, in voluntary negotiations with the SEIU on behalf of the public works unit the City was not able to obtain both a higher deductible and an increase in the employee contribution rate. The 1996-1999 agreement for that unit provides for a 10% employee contribution; it does not contain a requirement for a \$600 maximum family coverage deductible as does the City's offer here. Counsel for the City explained that disparity as follows:

In the SEIU contract, they were successful in persuading the City, since they were paid for the most part substantially less than the uniform services, that their deductible ought not be increased. The deductible for the three years of this contract will remain the --- will remain the same, 200, 400, and the 400 regardless of whether it was single plus one or family. (Tr-194)

Since Fire Fighters in Elmhurst earn substantially less than Police Offers there, a salary relationship the City argues is appropriate, the reasoning embodied in the above quote seems as applicable to the IAFF unit as it was to the SEIU unit.²¹ That is, with their higher salaries, Elmhurst Police Officers are better able to afford a \$600

²⁰ *Supra*, Note 19.

²¹ The exact salary disparity between the SEIU and IAFF units in Elmhurst is impossible to compute on the basis of the record before me, because it contains no salary schedule placement information for the former. The record does reveal, however, that the majority of wage rates in the SEIU agreement exceed the minimum base salary proposed by the City for Firefighters in the present proceeding.

family deductible than are Elmhurst Fire Fighters.

The Arbitrator notes that the 10% employee contribution sought by the City here was arrived at through voluntary negotiations with the SEIU. But again, a family coverage deductible increase of 50%, from \$400 to \$600 was not. Given the apparent considerable size of the SEIU unit, with its 70 or so separate job classifications, the Arbitrator does not believe its retained deductible, through voluntary negotiations with the City, is insignificant.

The Arbitrator concludes from the record that adoption of the City's final offer on health insurance would bring the IAFF unit in line with the FOP unit and with non-represented Elmhurst employees, but not with the SEIU unit. I turn now to the external comparables to evaluate further the merits of the parties' respective offers.

Table 5 has been constructed to juxtapose family health insurance costs and contributions across the comparables.

Table 5
Family Health Insurance Costs and Contributions

<u>Jurisdiction</u>	<u>Total Monthly Cost</u>	<u>Employee Contribution</u>		<u>Deductible</u>
		<u>(Amount)</u>	<u>(%)</u>	
Bensenville	627.00	94.05	15.0	400.00
Downers Grove	489.39	39.48	8.0	500.00
Hinsdale	320.58	48.00	15.0	300.00
Lombard	538.42	39.98	7.4	300.00
Naperville	386.67	.00	0.0	600.00
Oak Brook	373.96	.00	0.0	450.00
Villa Park	495.51	59.46	12.0	500.00
Wheaton	484.00	40.12	8.2	500.00
Average	464.44	40.12	8.2	443.75
Elmhurst				
City Offer	556.84	55.68	10.0	600.00
Union Offer	556.84	27.84	5.0	400.00

Sources: City Exhibit 56; Union Exhibit 22

As Table 5 illustrates, adoption of the City's final offer would have a significant impact on Elmhurst Firefighters and Fire Lieutenants *vis-a-vis* their counterparts across the comparables. In contrast to the Union's final offer to maintain the status quo, it would require the highest family deductible in the pool (tied with Naperville), taking them from their current position where five out of the eight comparable jurisdictions have higher deductibles. Moreover, adoption of the City's final offer would require the third highest monthly employee contribution in the comparables pool; at the current contribution rates they are the third lowest. And the City's offer of a \$55.68 contribution is farther from the pool average than is the current \$27.84 monthly contribution paid by Elmhurst Firefighters and Fire Lieutenants. Similar results are found when comparing the percentage contribution rates in the parties' offers to the pool average rate of 8.2%.

Overall, the Arbitrator is not persuaded from the record that there is compelling evidence to depart from the status quo. That is the prevailing standard, the City has the burden of meeting it, and the City has not done so.

A fundamental purpose of interest arbitration is to approximate what the parties would likely have negotiated themselves through the process of free collective bargaining. While the City's movement on the dental insurance issue might have been used as a *quid pro quo* for the Union's agreement at the bargaining table on the larger health insurance issue, it is more likely that the Union would not have agreed to a 100% increase in the employee contribution rate and a 50% surge in the family coverage deductible without more significant compromise on the City's part.

The Arbitrator has no authority to construct a tailored resolution of this issue himself, perhaps borrowing one element from the Union's offer and another from the City's, as appropriate. One offer or the other, in its entirety, must be selected. The Arbitrator therefore concludes that the Union's final offer on the health insurance issue is the more reasonable.

ECONOMIC ISSUE NO. 4 TERM OF AGREEMENT

The parties' respective final offers on this issue are identical. They both believe that the term of the Agreement should be May 1, 1996 - April 30, 1999. Given that accord, there is no need for the Arbitrator to address the Term of Agreement issue.

AWARD

Based upon full consideration of the record before me, including the applicable statutory criteria and the evidence and argument submitted by the parties, the Arbitrator awards the following with respect to their May 1, 1996 - April 30, 1999 collective bargaining agreement:

- (1) Economic Issue No. 1: Salaries and Other Compensation - the City's final offer is adopted.
- (2) Economic Issue No. 2 - Retroactivity of Salary Increases - the Union's final offer is adopted.
- (3) Economic Issue No. 3 - Health Insurance - the Union's final offer is adopted.
- (4) Economic Issue No. 4 - Term of Agreement - both parties' final offers being identical on this issue, they are adopted.
- (5) Additional items upon which the parties have reached agreement between themselves shall also be incorporated into their May 1, 1996 - April 30, 1999 collective bargaining agreement.

Signed by me at Chicago, Illinois this 20th day of April, 1997.



Steven Briggs

**ELMHURST PROFESSIONAL
FIREFIGHTERS ASSOCIATION, IAFF, LOCAL 3541
AMENDED FINAL LAST OFFER OF SETTLEMENT**

In accordance with Appendix A, paragraph c(ii) to the 1993-96 Agreement Between City of Elmhurst and Elmhurst Professional Firefighters Association, IAFF Local 3541, the Union hereby submits the following amended final last offer of settlement prior to arbitration as to each issue in dispute set forth on the Stipulation Of Issues In Dispute.

1. Salaries And Other Compensation

ARTICLE IX

SALARIES AND OTHER COMPENSATION

Section 1. Firefighter Salaries: Effective May 1, 1996, firefighters covered by this Agreement shall be paid on the basis of the following:

Start	\$32,600
6 months	\$34,424
1 year	\$36,335
2 years	\$38,200
3 years	\$40,481
4 years	\$42,727
5 years	\$45,099

Effective May 1, 1997, firefighters covered by this Agreement shall be paid on the basis of the following:

Start	\$33,904
6 months	\$35,801
1 year	\$37,788
2 years	\$39,728
3 years	\$42,100
4 years	\$44,436
5 years	\$46,903

Effective May 1, 1998, firefighters covered by this Agreement shall be paid on the basis of the following:

Start	\$34,921
6 months	\$36,875
1 year	\$38,922
2 years	\$40,920
3 years	\$43,363
4 years	\$45,769
5 years	\$48,310

Section 2. Fire Lieutenant Salaries. Effective May 1, 1996, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

Start	\$47,820
6 months	\$50,108
1 year	\$52,508
2 years	\$55,111

Effective May 1, 1997, fire lieutenants covered by this Agreement shall be paid on the following basis:

Start	\$49,733
6 months	\$52,112
1 year	\$54,608
2 years	\$57,315

Effective May 1, 1998, fire lieutenants covered by this Agreement shall be paid on the following basis:

Start	\$51,225
6 months	\$53,675
1 year	\$56,246
2 years	\$59,034

Section 3. Step Increments. Except for newly hired/promoted employees, employees who are not at the top step shall be eligible to advance to the next step on the anniversary of their date of hire with the City, except Lieutenants shall receive step increases on the anniversary date of their promotion into the Lieutenants classification, provided it has been determined through the performance appraisal process that they have met departmental standards during the preceding year. Newly hired/promoted employees shall be eligible to move to Step B after the first six months of employment, provided it has been determined through the performance appraisal process that they have met departmental standards during the first six months of employment.

Section 4. Longevity.

Effective May 1, 1996, and thereafter, longevity payments shall be added to firefighters base wages as follows:

Employees with ten to fifteen years of service shall receive an additional \$1,500 per year.

Employees with fifteen to twenty years of service shall receive an additional \$1,800 per year.

Employees with twenty years of service, and thereafter, shall receive an additional \$2,700 per year.

Effective May 1, 1996, and thereafter, longevity payments shall be added to lieutenants base wages as follows:

Employees with ten to fifteen years of service shall receive an additional \$300 per year.

Employees with fifteen to twenty years of service shall receive an additional \$500 per year.

Employees with twenty years of service, and thereafter, shall receive an additional \$700 per year.

Section 5. Acting Pay. Fire Lieutenants who are assigned to serve as acting Captains shall be paid an additional sum representing 75% of the difference between the Fire Lieutenant's hourly rate of pay and the Captain's first step hourly rate of pay for the time during which they are so assigned.

2. Retroactivity of Salary Increases.

The increases in salaries for firefighters and lieutenants and longevity pay shall be retroactive to May 1, 1996 for employees still on the active payroll on the effective date of Arbitrator Brigg's award, provided that any employee who retired on or after May 1, 1996, but before the effective date of Arbitrator Brigg's award, shall also be eligible to receive retroactive pay based on the hours worked between May 1, 1996 and the date of retirement. Payment shall be made on an hour for hour basis for all regular hours worked since May

1, 1996, as well as all hours of paid leave, vacation, holiday pay and overtime hours between May 1, 1996, and the effective date of Arbitrator Brigg's award.

3. Insurance - Article XI, Sections 1 and 2 - - Current Contract Language.
4. Term Of Agreement - Three years - effective May 1, 1996 - April 30, 1999.

Revise the first sentence of Article XVII, Section 1 to read as follows:

Unless otherwise specifically provided herein, this Agreement shall be effective as of the day after the contract is executed by both parties and shall remain in full force and effect until 11:59 p.m. on the 30th day of April, 1999.

Delete Section 2 as there will be no reopener.

APPENDIX B

INTEREST ARBITRATION
BEFORE
STEVEN BRIGGS

CITY OF ELMHURST,)
)
Employer)
)
and) Interest Arbitration on
) Salaries, Retroactivity,
) Health/Dental Insurance, and
) Term of Agreement
ELMHURST PROFESSIONAL)
FIREFIGHTERS ASSOCIATION,)
IAFF LOCAL 3541,)
)
Union)

CITY'S FINAL LAST OFFERS OF SETTLEMENT PRIOR TO ARBITRATION

The City of Elmhurst ("Employer") submits the following final last offers of settlement on each of the issues in dispute:

1. **Salaries and Other Compensation (includes Lieutenant and Firefighter Salaries, Step Increments, Certification Pay and Merit Pay) (Article IX)**

The City's final last offer of settlement on salaries and other compensation is to revise Article IX as follows:

ARTICLE IX

SALARIES AND OTHER COMPENSATION

Section 1. Firefighter Salaries. Effective May 1, 1996, firefighters covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Annual Salary</u>
A	\$32,863
B	\$34,508
C	\$36,151
D	\$37,794
E	\$39,436
F	\$41,082
G	\$42,724
H	\$44,452

Effective May 1, 1997, firefighters covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Annual Salary</u>
A	\$34,178
B	\$35,888
C	\$37,597
D	\$39,306
E	\$41,013
F	\$42,725
G	\$44,433
H	\$46,230

Effective May 1, 1998, firefighters covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Annual Salary</u>
A	\$35,203
B	\$36,965
C	\$38,725
D	\$40,485
E	\$42,243
F	\$44,007
G	\$45,766
H	\$47,617

Section 2. Fire Lieutenant Salaries. Effective May 1, 1996, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Annual Salary</u>
A	\$47,157
B	\$49,047
C	\$51,010
D	\$53,222

Effective May 1, 1997, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Annual Salary</u>
A	\$49,043
B	\$51,009
C	\$53,050
D	\$55,351

Effective May 1, 1998, fire lieutenants covered by this Agreement shall be paid on the basis of the following:

<u>Step</u>	<u>Annual Salary</u>
A	\$50,514
B	\$52,539
C	\$54,642
D	\$57,012

Section 3. Step Increments. Except for newly hired/promoted employees, employees who are not at the top step shall be eligible to advance to the next step on November 1, provided it has been determined through the performance appraisal process that they have met departmental standards during the preceding year. Newly hired/promoted employees shall be eligible to move to Step B after the first six months of employment, provided it has been determined through the performance appraisal process that they have met departmental standards during the first six months of employment. Employees who are hired/promoted between November 1 and April 30 shall not be allowed to advance two steps within the first twelve months following employment/promotion. Example: A newly hired employee who commences work on April 1, 1996 shall be eligible to move to Step B on October 1, 1996. Said employee, however, shall not be eligible to move to Step C on November 1, 1996, but rather shall be eligible to move to Step C on November 1, 1997.

Section 4. Certification Pay. Each firefighter at step G or above shall be eligible for an annual stipend of \$900 for certification as a Fire Fighter III (pro rata if possessed for less than a fiscal year).

Each firefighter and fire lieutenant who is certified as an EMT-A shall receive an annual stipend of \$400 (pro rata if possessed for less than a fiscal year).

Each member of the bargaining unit shall receive an annual stipend of \$200 (pro rata if employed less than a fiscal year) as long as the City maintains the ISO Fire Rating 2.

Section 5. Merit Pay. Each firefighter with a minimum of five years employment as a firefighter for the City shall be eligible to receive on December 1 of each year of this Agreement merit pay in accordance with the merit pay program in effect immediately prior to the execution of this Agreement.

Section 6. Acting Pay. Fire Lieutenants who are assigned to serve as acting Captains shall be paid an

additional sum representing 75% of the difference between the Fire Lieutenant's hourly rate of pay and the Captain's first step hourly rate of pay for the time during which they are so assigned.

2. Retroactivity of Salary Increases

The City's final last offer of settlement on retroactivity is as follows:

The increases in salaries shall be retroactive to the effective dates specified herein, i.e., May 1, 1996 for employees still on the active payroll on the effective date of Arbitrator Brigg's award, provided that any employee who retired on or after May 1, 1996 but before the effective date of Arbitrator Brigg's award shall also be eligible to receive retroactive pay based on the hours worked between May 1, 1996 and the date of retirement. Payment shall be made on an hour for hour basis for all regular hours actually worked since May 1, 1996, as well as all hours of paid leave and vacation between May 1, 1996, and the effective date of Arbitrator Brigg's award. Retroactivity shall not be paid on any non-FLSA overtime hours worked between May 1, 1996 and the effective date of Arbitrator Brigg's award.

3. Insurance (includes Amount of Deductible and Amount of Contribution (Article XI, Section 1) and Amount of City's Contribution for Dental Plan (Article XI, Section 2))

The City's final last offer of settlement on insurance is to revise Article XI, Sections 1 and 2 as follows:

Section 1. Health Benefit Plan. The health benefit plan in effect when this Agreement is ratified shall be continued during the term of this Agreement; provided, however, that effective January 1, 1997, the maximum deductible for family coverage (three or more persons covered) shall be increased from \$400 to \$600; and provided further, the City reserves the right to change insurance carriers, benefit levels, or to self-insure as it deems appropriate, as long as the new basic coverage and basic benefits are substantially similar to those which predated this Agreement. Employees may elect single or dependent coverage in the City's health benefit plan during the enrollment period established by the City. Effective May 1, 1996 (and retroactive to said date), the employee shall pay ten percent (10%) of the cost of single or family coverage under the City's self-insured Comprehensive Health Plan and the City shall pay the balance of the cost; provided, however, that the percentage increase in the amount paid by the employee for either single or family coverage shall be capped at not more than 15% in any given year.

Notwithstanding the foregoing, employees shall not be required to pay a higher percentage of the premium or cost than the unrepresented employees of the Fire Department.

Section 2. Dental Plan. The dental plan in effect when this Agreement is ratified shall be continued during the term of this Agreement; provided, however, the City retains the right to change insurance carriers, HMO's, benefit levels, or to self-insure as it deems appropriate, as long as the new basic coverage and basic benefits are substantially similar to those which predated this Agreement. During the enrollment period established by the City an employee may elect coverage under one of the plans offered by the City. For single coverage under the plan chosen by the employee, the City will pay \$8.22 per month and the balance of the cost will be deducted from the employee's paycheck. For family coverage under the plan chosen by the employee, the City will pay \$12.99 per month and the balance of the cost shall be deducted from the employee's paycheck.

4. **Term of Agreement**

The City's final last offer of settlement on term of agreement is to revise the first sentence of Article XVII, Section 1 to read as follows:

Unless otherwise specifically provided herein, this Agreement shall be effective as of the day after the contract is executed by both parties and shall remain in full force and effect until 11:59 p.m. on the 30th day of April, 1999.

The City's final last offer of settlement on this issue would also include the deletion of Section 2 of Article XVII since there would be no reopener under the City's offer.

Respectively submitted,

CITY OF ELMHURST

By R.T. Clark, Jr.
Its Attorney

Dated: October 31, 1996

