
In The Matter Of The Petition Of:

GREENFIELD CITY POLICE DEPARTMENT
EMPLOYEES, MILWAUKEE DISTRICT COUNCIL
48, AFSCME, AFL-CIO, and its affiliated
LOCAL 2

Decision No. 23818-A

To Initiate Mediation/Arbitration
Between Said Petitioner

-and-

CITY OF GREENFIELD

Appearances: Nola J. Hitchcock Cross, Attorney at Law, for the Union
Gary M. Ruesch, Attorney at Law, for the Employer

Greenfield City Police Department Employees, Milwaukee District Council 48, AFSCME, AFL-CIO and its affiliated Local 2, hereinafter referred to as the Union filed a petition on December 23, 1985 with the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, wherein it alleged that an impasse existed between it and the City of Greenfield, hereinafter referred to as the Employer, in their collective bargaining, and it requested the Commission to initiate mediation/arbitration pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act.

At all times material herein the Union has been and is the exclusive collective bargaining representative of certain employees of the Employer in a collective bargaining unit consisting of all regular full-time and regular part-time clerical employees in the city hall, fire department and police department, excluding the deputy city clerk, secretary to the director of public works, secretary to the police chief and all supervisory, professional, confidential and managerial employees. The Union and the Employer have been parties to a collective bargaining agreement covering wages, hours and working conditions of the employees in the unit that expired on December 31, 1985. On September 18, 1985 the parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement and they met on four occasions in efforts to reach an accord. Subsequent to the filing of the petition to initiate mediation/arbitration, a member of the Commission staff conducted an investigation that reflected that the parties were deadlocked in their negotiations. The parties submitted their final offers to the investigator who then closed the investigation and submitted his report to the Commission. The Commission concluded that an impasse existed between the parties and certified that conditions precedent to the initiation of mediation/arbitration had been met. It ordered the parties to select a mediator/arbitrator and notify the Commission of the name of the person selected. Upon being advised that the parties had selected Zel S. Rice II, the Commission issued an order on August 26, 1986 appointing him as the mediator/arbitrator and directed him to endeavor to mediate the issues in dispute and should such endeavor not result in the resolution of the impasse between the parties, issue a final and binding award to resolve the impasse by selecting either the total final offer of the Union or the total final offer of the Employer.

The Union submitted a final offer, attached hereto and marked Exhibit A, proposing that part-time employees working 20 hours or more receive holidays on Memorial Day, Fourth of July, Labor Day, Christmas Day and New Years Day based on the average hours worked and all new employees of the Employer hired on or after January 1, 1986 be required to reside within the Employer's city limits within one year after successful completion of the six month probationary period of employment. It proposes that in the event an employee covered under the terms of the article fails to establish residency within the Employer's city limits within the one year or moved out of the city limits at anytime during the term of his or her employment the Employer could terminate his or her employment

at its option. The Employer's final offer, attached hereto and marked Exhibit B, contained no new proposals but objected to the two proposals contained in the final offer of the Union.

A mediation session was conducted between the Employer and the Union at the Greenfield City Hall on November 6, 1986. After several hours it became apparent that neither the Employer or the Union could make the necessary moves to reach an agreement. The mediation phase of the proceedings ended and the arbitration hearing was conducted immediately thereafter.

In December of 1977 the Employer passed an ordinance requiring that all of its employees be residents and any person hired was required to become a resident within one year after the completion of the probationary period. Similar residency requirements were included in all of the Employer's collective bargaining agreements. On November 26, 1980 the Employer suspended its residency requirements for a period of four months. On November 9, 1981 the residency requirements were suspended for another period of 12 months. When the 12 months expired the Employer did not choose to enforce the residency requirements. At a meeting of the Employer's common council on October 16, 1984 a number of employees appeared and objected to the Employer's residency ordinance. At a council meeting on November 7, 1984 a motion was made to lift the moratorium on enforcing the residency requirements for certain city employees. The matter was referred to the personnel committee for a determination as to the amount of time to be given an employee to move into the city. The Employer's personnel committee held a meeting on November 19, 1984 and a decision was made to direct the labor negotiator to send a letter to each of the Unions and request a meeting to discuss the residency issue. The personnel committee met again on December 17, 1984 and it made a decision that it would proceed on the residency requirements as directed by the Employer's council because meetings with the Unions were unsuccessful in resolving the matter. On December 18, 1984 at a meeting of the city council there was further discussion of the matter. The council agreed to act on the December 17th personnel committee recommendations at the January 8, 1985 meeting of the city council. The Employer's mayor was instructed by the council to enforce the ordinance requiring employees to move into the city. At the council meeting on April 15, 1986 the Employer granted three employees extensions of time to move into the city. In August of 1986 the Employer exempted part-time employees from the residency requirements.

The Village of Hales Corners, the Greenfield School District and the cities of Franklin, Cudahy and South Milwaukee all give prorata benefits to part-time employees. Hales Corners gives part-time employees holidays, longevity, vacations, sick leave, disability insurance, health and dental insurance and terminal leave. The City of Franklin gives holidays, vacation and sick leave. The City of Cudahy gives all benefits to part-time employees and pays the single plan health insurance and $40.00 toward family coverage. The City of South Milwaukee gives part-time employees holidays, vacation, sick leave, life insurance and health insurance. The Greenfield School District gives part-time employees three paid holidays, sick leave and the single health plan. West Milwaukee, St. Francis, Oak Creek and Glendale have no part-time employees. The City of Greenfield does not give holidays, longevity, vacation, sick leave, disability insurance, health and dental insurance or terminal leave to part-time employees.

The Village of Hales Corners, the City of Franklin, the Village of West Milwaukee and the Village of Glendale have no residency requirements. The Village of St. Francis and the cities of Cudahy and South Milwaukee have an ordinance covering residency and the City of Oak Creek and the Employer address it in their labor agreements.

In 1985 the Union representing the Employer's police filed a grievance contending that it had violated the collective bargaining agreement by enforcing the residency requirement. In an arbitration award issued on September 4, 1985 Arbitrator Byron Yaffee found that the Employer had the right to enforce the residency requirement. The firefighters filed a grievance in 1985 contending

that the Employer did not have the right to enforce the residency requirement in the collective bargaining agreement. Arbitrator Frank Zeidler issued an award on July 1, 1985 finding that the Employer had the right to enforce the residency requirement. The Employer and the Union were involved in an arbitration before Arbitrator Robert Mueller. His award determined that the Employer would be in violation of the collective bargaining agreement by requiring an employee to become a resident of the Employer prior to December 31, 1985. Mueller's award, issued on October 21, 1985, found that the language in the collective bargaining agreement was clear and unambiguous and required all employees to become residents of the city. He ruled that because the Employer had assured the grievant during the period of the 1983-1985 agreement that she would not have to move into the Employer's city limits it was estopped from enforcing the residency requirement against her during the term of the agreement. Mueller went on to point out that unless the language of the collective bargaining agreement was changed the Employer would be free to seek compliance by employees with the residency requirement.

In 1980 the average rate of interest on conventional home mortgages was 12.86%. In 1981 it had increased to 14.99% and by 1982 it was 15.33%. In 1983 the average rate on conventional home mortgages was 12.82% and in 1984 it dropped to 12.48%. In 1985 the average rate was 11.71% and in 1986 it was 10.4%. The Employer has approximately 12,000 living units within its borders and between 1,200 and 1,300 of them are condominiums. Approximately 4,000 of the total living units are rental units. The rent on a one bedroom apartment ranges from $375.00 to $460.00 and the rent on a two bedroom apartment ranges from $435.00 to $505.00. A number of the apartments do not allow children in them. The value of homes in the Employer's city limits range from $45,000.00 to $175,000.00. 30% to 40% of the homes fall within the range of $60,000.00 to $75,000.00 and the median value is $68,000.00.

Five of the 27 employees in the Department of Public Works still live outside the Employer's city limits. 13 of the 37 employees in the Fire Department live outside the Employer's city limits. 30 out of the 64 employees in the Employer's Police Department live outside the Employer's city limits. Ten of the 32 clerical employees live outside the Employer's city limits. One employee in the Department of Public Works has moved in to the city since the moratorium was lifted and three employees in the Fire Department have moved into the city limits. Nine police have moved into the city limits since the moratorium was lifted and five clerical employees have moved to the city. Three employees in the Department of Public Works and five in the Police Department and four of the clerical employees are still in their probationary period and have a period of grace before they will be required to move into the city. Two Department of Public Works employees and 13 Fire Department employees and 25 police and six clerical employees are "grandfathered" out of the residency requirement.

The Employer has three part-time secretaries in its health department performing office work. One of them works four hours a day on five days of the week for a total of 20 hours per week. There are two other part-time employees and one of them works four five hour days and one works five six hour days. There is a full-time secretary in the Department of Health. The part-time employees do the same work as the full-time employees when they are all working on the same project. Part-timers fill in for the full-time employees and the full-time employees have no skills not possessed by the part-time employees. Full-time employees get 11 paid holidays. Christmas and New Years in 1986 fell in the same pay period and the employee who was supposed to work 60 hours in that pay period had six days to do it. It was impossible to perform 60 hours of work in six eight hour days. Part-time employees can make up a holiday in a pay period by working longer hours but they lose the pay they would have earned on the holidays if they are unable to make it up. There is sufficient money in the Employer's budget to pay the part-time employees for all of the holidays. If a part-time employee who works 20 hours a week works six hours in a day to cover for some other employee she must work only two hours some other day so that she does not work more than 20 hours a week. Part-time employees receive no fringe benefits and make up the time when they are sick. If they cannot make up the

time they lose the pay. They have no health insurance.

A clerk dispatcher in the Employer's Police Department was hired by the Employer in 1980 and lived in Milwaukee. She moved to a residence in the Employer's city limits. When she got married and was going to have a baby the Employer had a moratorium on residency so she moved to West Allis in 1984 where she was able to obtain an apartment with three bedrooms. Now the Employer has told her that she has to move back or lose her job.

The collective bargaining agreements between the Employer and the police and the Employer and the Union that is the bargaining representative of employees in the Department of Public Works contain the same language on residency that was included in the 1983-1985 agreement between the Employer and the Union representing the clerical employees. The Employer seeks to have that language continued in the new collective bargaining agreement and the Union seeks to modify it by changing the operative hiring date to January 1, 1986. The Employer's collective bargaining agreement with its fire fighters covering the period from January 1, 1986 through December 31, 1988 incorporates the Employer's residency ordinance adopted December 6, 1977.

UNION'S POSITION

The Union argues that the part-time employees perform exactly the same type of work performed by full-time employees and the sole difference between them is that the less than full-time employees receive no fringe benefits and the full-time employees get 11 holidays with pay plus vacation, sick leave and a health insurance program. It points out that part-time employees in the Village of Hales Corners, City of Franklin, City of Cudahy, City of South Milwaukee and the Greenfield School District get prorata benefits for holidays, longevity, vacation, sick leave and health insurance. The other comparable communities of West Milwaukee, St. Francis, Oak Creek and Greendale have no part-time employees. All of their employees receive the full range of benefits. The Union points out that none of the Employer's other bargaining units include part-time employees and all employees covered by their collective bargaining agreements receive holidays, longevity, vacations, sick leave and health insurance. The Union contends that less than full-time employees in the comparable communities are given all holidays on an hours worked basis. It asserts that the closest comparable is Greenfield School District and its less than full-time employees receive three holidays paid plus prorata sick leave, life insurance and health insurance.

The Union contends that Hales Corners, Franklin, West Milwaukee and Greendale have no residency requirement whatsoever and the Village of St. Francis and cities of Oak Creek, Cudahy and South Milwaukee do have residency requirements. It asserts that it is difficult and expensive to find appropriate housing facilities within the Employer's boundaries. The Union points out that sometimes the Employer has enforced its residency requirement and sometimes it has not. It asserts that the Mayor has promised employees that the residency requirement would not be enforced and a new mayor would change the policy. The Union argues that the promises that have been made were not always kept and variances have been made for some employees but not for others.

EMPLOYER'S POSITION

The Employer argues that an internal pattern has been established by it with all its bargaining units and the Arbitrator should not depart from that pattern by giving this bargaining unit benefits that are not provided to the others by their collective bargaining agreements. It contends the award in this proceeding should be consistent with the agreements reached at the bargaining table by it and the other bargaining units. The Employer asserts that if the Union is awarded a level of benefits deviating substantially from the internal pattern that has been established, it will be faced with similar demands from

all of its employees. The Employer points out that the expiring collective bargaining agreement with the Union requires all employees hired on or after January 1, 1978 to reside within the city limits of the Employer within one year after completion of a six month probationary period. It asserts that the Union is attempting to modify the present language by eliminating the residency requirement for all of its members who were hired before January 1, 1986. The Employer takes the position that the Union has failed to present any justification for the modification and is not supported by the internal comparision with the Employer's other bargaining units. It points out that each of the agreements with the other bargaining units contain residency requirements similar to the one contained in its final offer and they have an effective date of January 1, 1978. Not a single one has an effective date of January 1, 1986. It argues that internal consistency is the controlling factor on a policy issue such as residency and the residency requirements of other communities in the area are immaterial. The Employer points out that its police, fire and clerical bargaining units have all grieved the enforcement of the residency requirement and the arbitrators recognized that the Employer could maintain the residency requirement. It argues that the employees in its police, fire and department of public works bargaining units have voluntarily agreed to a residency requirement with an effective date of January 1, 1978 and the clerical unit employees should be willing to continue with that effective date in their agreement.

The Employer argues that the rate of interest for home loans has declined over the past four years and individuals can purchase homes at interest rates lower than those in effect at the time of the residency moratorium. It contends that the residency moratorium was put into effect because of rising interest rates in order to avoid economic hardship for the employees, but that situation no longer exists. It takes the position that suitable and affordable rental units are available within the city at rents ranging from $375.00 to $500.00 per month. The Employer contends that those rents are similar to the cost of rental units in surrounding communities and there is no credible basis for the Union's contention that there are not rental units available at reasonable rents. It points out that the value of homes range from $45,000.00 to $175,000.00 with a median value of $68,000.00. The Employer argues that the wide range of home values along with the decreasing interest rate demonstrate that there are rental units and homes available at prices comparable to those in surrounding communities.

The Employer asserts that the 1983-85 collective bargaining agreement between the Employer and the Union clearly states that part-time employees shall not receive any fringe benefits. It argues that the agreements with the other bargaining units restrict paid holiday benefits to full-time employees. The Employer takes the position that if the part-time employees in this bargaining unit receive five paid holidays, the internal consistency within all the bargaining units will be disrupted. It contends that the benefits earned by part-time employees in surrounding communities are not relevant because internal consistency is more significant.

The Employer argues that its proposal maintains the status quo that had previously been negotiated between the parties. It takes the position that all of its other bargaining units have residency requirements that are consistent with the one proposed for this bargaining unit. The Employer asserts that the external comparables are irrelevant and immaterial. It contends that economic conditions are no longer an impediment to the enforcement of the residency requirement because there is ample housing stock in a wide price range and rental units are available at a reasonable price. The Employer argues that the residency requirement is reasonable because an employee has a full six month probationary period and one year thereafter to establish residence. The Employer asserts that its refusal to give paid holidays to part-time employees is consistent with its agreements with other bargaining units and maintains the status quo. It argues that no credible evidence has been adduced on the record that establishes a need to change the status quo on either the residency or paid holiday provisions. The Employer emphasizes that the final offers should be examined solely in comparision with its other bargaining units. It points out

that all of the other bargaining units restrict fringe benefits to full-time employees. It takes the position that the Union is seeking a new benefit and its proposal deviates from the norm established by the Employer's other bargaining units. The Employer points out that the actual issue in dispute is not the residency requirement itself but rather the effective date and it only seeks to have the effective date the same for all of its bargaining units.

DISCUSSION

Section 111.70(4)(cm)7 of the Wisconsin Statutes provides that in making any decision under the arbitration procedures the mediator/arbitrator shall give weight to (a) the lawful authority of the municipal employer, (b) stipulations of the parties, (c) the interest and welfare of the public and the financial ability to meet the costs, (d) comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration with the wages, hours and conditions of employment of other employees performing similar services and with other employees in public employment in the same community and in private employment in the same community and in comparable communities, (e) the average consumer price for goods and services, (f) the overall compensation presently received by the municipal employees, (g) changes in any of the foregoing circumstances during the pendency of the arbitration proceedings, and (h) such other factors normally taken into consideration in the determination of wages, hours and conditions of employment. The Employer would restrict the arbitrator to consideration of comparisons with other bargaining units of the Employer and the interest and welfare of the public and other factors normally considered in determination of wages, hours and conditions of employment. In effect the Employer urges the arbitrator to ignore the comparisons with comparable employees in comparable communities. Section 111.70(4)(cm)7 of the Statutes states that the Employer "shall" give weight to the following factors and includes comparisons with employees performing similar services in comparable communities. The arbitrator is satisfied that he must consider the comparabilities of comparable communities as well as the internal comparisons of the Employer.

The Employer has had a residency requirement in each of the agreements with each of its collective bargaining units since 1978. The language of the residency requirement in the agreements between the Employer and its Police, Department of Public Works and clerical employees has been exactly the same in each of the contracts since 1978. Each of those agreements provided that all new employees hired after January 1, 1978 were required to reside within the city limits within one year after successful completion of the six month probationary period. In the event that an employee failed to establish residency within one year or moved out of the city at any time during the term of his employment, the Employer could terminate his employment at its option. The language in the agreement with the firefighters has been somewhat different over the years. It incorporated the language of the ordinance passed in December of 1977 and it provided that failure to comply with the residency requirement operated as a termination of employment. The primary difference between the effect of the language in the firefighters agreement and the other agreements is that the language of the firefighters agreement automatically terminated an employee who failed to meet the residency requirement while the other agreements gave the Employer the option of terminating the employees.

The record contains no information about the administration of the residency requirement in any of the collective bargaining agreements between 1978 and 1980. In 1980 the Employer suspended enforcement of the residency requirement because the economic conditions at the time made it difficult for employees to obtain housing within the Employer's city limits. In January of 1985 the Employer's mayor was instructed by the council to enforce the residency requirements against all employees. The Employer has administered the residency requirement in a somewhat inconsistent and arbitrary matter. Sometimes the residency requirement has been enforced and sometimes it has not. Sometimes a mayor promised employees that the residency requirement would not be enforced

and they did not have to worry about it. Eventually that policy changed and the manner and degree of enforcement of the residency requirement has fluctuated. Some employees were given short extensions of time in which to comply with the residency requirement while others were given longer ones.

The language of the residency requirement has remained in each of the Employer's collective bargaining agreements and has been agreed to by the Union. The effective date of the residency requirement has not changed in any of the agreements between the Employer and its collective bargaining units. Three of the bargaining units have reached agreement with the Employer on new contracts covering the period from January 1, 1986 to December 31, 1988 and all of them retain the same language that has been in all of the agreements since January of 1978 and contain the requirement that an employee who was hired after January 1, 1978 must meet the Employer's residency requirements. Only the clerical unit represented by the Union has failed to agree with the Employer on this issue. The Union seeks to have the effective date of the residency requirement changed so that only employees hired after January 1, 1986 will be required to meet it. In effect, it would exclude from the residency requirement all employees in the clerical bargaining unit who were hired before January 1, 1986.

The Union relies on a comparable group consisting of the Village of Hales Corners, the City of Franklin, the Village of West Milwaukee, the Village of Glendale, the Village of St. Francis, the City of Cudahy, the City of South Milwaukee, the City of Oak Creek and the Employer, hereinafter referred to as Comparable Group A. All of the communities are somewhat similar and are in the same general geographic area. Four of the communities in Comparable Group A have no residency requirement in their collective bargaining agreements or in any ordinance. Two communities have an ordinance with a residency requirement and two communities, including the Employer, have residency requirements in their labor agreements. Half of the comparable group have residency requirements and half of them do not. The issue between the Employer and the Union is not an issue over the residency requirement itself. The Union proposes to have a residency requirement exactly like the one proposed by the Employer except that it would change the effective date of its application from January 1, 1978 to January 1, 1986. Comparing the positions of the Employer and the Union with the residency requirement situation in Comparable Group A does not favor the position of either the Employer or the Union.

The arbitrator is satisfied that it is in the interest and welfare of the public to have uniformity in the residency requirement in the agreements with the four collective bargaining units with which the Employer negotiates. While there are differences in the employees and in their duties and in their aspirations, the Employer is better served if there is some degree of uniformity in the provisions that are contained in each of the collective bargaining agreements. It avoids disparate treatment of employees and potential whip sawing of the Employer by the bargaining units. The effective date that the Employer seeks to retain in the collective bargaining agreement was agreed upon by the Union and each of the other bargaining units back in 1978. Even the agreements that were negotiated during the period that the residency requirement was not enforced included the residency requirement in each of the agreements with the same effective date of January 1, 1978. Three of the bargaining units have reached agreement on the 1986-1988 contract and they have included the same language with the same effective date. There is no reason why the Employer should agree to change that effective date for the clerical bargaining unit to such a degree that none of the members of the bargaining unit who were employed prior to January 1, 1986 would be required to meet the residency requirement while all of the employees in each of the other bargaining units who were employed after January 1, 1978 are required to meet those same residency requirements. An award by this arbitrator that departed from the pattern agreement reached with other bargaining units as a result of negotiations would do violence to the bargaining process between the Employer and the Unions with which it bargains. This is particularily true because this Union has agreed with the Employer in several collective bargaining agreements that the effective date of the residency requirement should be January 1, 1978.

The arbitrator finds that the lawful authority of the Employer, the stipulations of the parties, the average consumer price index for goods and services, the overall compensation of the employees and changes in any circumstances during the pendency of the arbitration proceedings does not favor either the Employer's position or the Union's position. Even a comparison of the positions of the parties on residency requirements with other municipalities in Comparable Group A does not favor either party on the issue of the effective date of the residency requirement. The arbitrator finds that the position of the Employer on the issue of the effective date of the residency requirement comes closer to the statutory criteria by reason of the internal comparison with the Employer's other bargaining units and by reason of the public interest.

The Union's proposal would require the Employer to provide holiday pay on an hours worked basis for five of the 11 contractually specified holidays to all employees working more than 20 hours but fewer than 40 hours weekly. The Employer's proposal would continue the practice of not paying holiday pay to any of the part-time employees in the bargaining unit. Regular full-time employees receive 11 holidays as well as other fringe benefits. The part-time employees are regular permanent employees performing exactly the same type of work performed by full-time employees. In 1986 the Christmas and New Years holidays fell in the same pay period and the full-time employees received a total of four holidays with pay during that pay period. The part-time employee who was supposed to work 60 hours in a pay period had six days to do it. It was impossible to perform 60 hours of work in six eight hour days and the employee took a cut in pay for that pay period. In Comparable Group A only five of the municipalities have part-time employees and all of them except the Employer provide holiday pay as well as other fringe benefits to the part-time employees. The Union's position on the holiday pay issue is much closer to the external comparables than that of the Employer. The Employer argues that none of the part-time employees in its other bargaining units receive holiday pay and it should prevail on the basis of internal comparability. It is true that the Employer's collective bargaining agreement with its Department of Public Works employee provides that part-time employees shall not receive any fringe benefits. The agreement with the firefighters provides holidays for employees working at least a 40 hour work week. The agreement with the Employer's police provides compensatory time off for all employees in the bargaining unit. The fact is that there are no part-time employees in any of the three bargaining units that the Employer relies on as internal comparables. While the language of the firefighter and Department of Public Works agreements seem to preclude part-time employees from receiving holiday pay, the language is meaningless verbiage because it does not preclude any employee in either of those bargaining units from receiving holiday pay. The only employees of the Employer that do not receive some holidays are the part-time employees in the clerical bargaining unit. This treatment seems to be unfair to those employees and in sharp contrast to the comparable communities. All of the equities as well as the comparability criterion would seem to favor the Union's position on the issue of holiday pay for part-time employees.

While the arbitrator finds that the statutory criteria supports the Employer's position on one issue and the Union's position on the other issue, he recognizes that the Union is seeking a departure from the language in the old collective bargaining agreement to which it agreed and which has been in place for a number of years. The Union seeks to have the arbitrator change provisions in the collective bargaining agreement to which it has agreed in the past and which some of the Employer's other bargaining units have included in their past contracts as well as the one covering the period from January 1, 1986 to December 31, 1988. The arbitrator finds it difficult to reach a decision in this matter because the statutory criteria seems to favor the Employer on one issue and the Union on another. The parties have reached agreement on a residency requirement in prior agreements and they have reached agreement on the holiday issue in prior agreements. The Union is asking the arbitrator to change provisions in the collective bargaining agreement that it agreed to in the past. Arbitrators are not inclined to change provisions in collective bargaining agreements to which the parties have voluntarily agreed in the past. The role

of an arbitrator is not to provide new benefits in the absence of unique circumstances. The Employer has reached agreement with its other bargaining units on the effective date of its residency requirement and the Union has not provided any compelling reason why it should have a different effective date and eliminate the uniformity that the Employer has with its other bargaining units on that issue. Even though the arbitrator is of the opinion that the external comparables support the position of the Union on the issue of holiday pay for part-time workers he is reluctant to require the Employer to provide new benefits for those employees when the Union and the Employer have entered into several collective bargaining agreements denying that benefit to them. The external comparables support the Union's position on the issue of prorated holiday pay for part-time employees. While the internal comparables might seem to support the position of the Employer they lack impact because none of the Employer's other bargaining units have any part-time employees. It is easy to reach an agreement denying a benefit to part-time employees with a bargaining unit that has no part-time employees.

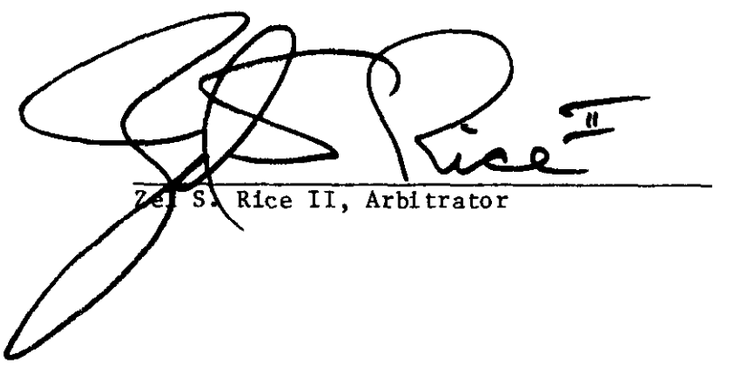
The Employer seeks to retain the status quo with respect to the effective date of the residency requirement and the payment of holiday pay. The Union is asking the arbitrator to give the employees benefits that the bargaining unit has not had in the past. Arbitrators are reluctant to change contractual provisions and provide new benefits for employees when it requires a change in the language of an agreement that was freely negotiated and fits the internal comparable pattern.

It therefore follows from the above facts and discussion thereon that the undersigned renders the following

AWARD

After full consideration of the criteria set forth in the statutes and after careful and extensive examination of the exhibits and briefs of the parties the arbitrator finds the Employer's final offer more closely adheres to the statutory criteria than that of the Union and directs that the Employer's proposal contained in Exhibit B be incorporated into an agreement containing the other items to which the parties have agreed.

Dated at Sparta, Wisconsin this 17th day of February, 1987.



Zel S. Rice II, Arbitrator

EXHIBIT A

AFSCME®
American Federation of State County Municipal Employees
MILWAUKEE DISTRICT COUNCIL 48
3427 West St Paul Avenue
Milwaukee, Wisconsin 53208
Telephone (414) 344-6868

JOHN PARR
Executive Director
DANIEL M. O'DONNELL
President

May 28, 1986

Mr. Andrew Roberts
Investigator
Wisconsin Employment Relations Commission
P. O. Box 7870
Madison, Wisconsin 53707-7870

Re: City of Greenfield
Case 82 No. 36239 Med/Arb - 3734

Dear Mr. Robert:

Enclosed you will find the Union's final offer to the City of Greenfield. A copy of this letter and final offer was mailed to Mr. Gary M. Ruesch. The Union will reserve its right to amend its final offer upon receiving the City's final offer.

If you have any questions, please give me a call.

Yours truly,

Anthony F. Molter
Staff Representative

AFM
pj/opeiu9afl-cio

CC: Mr. Gary M. Ruesch
Ms. C. Ann Lango

Enclosure

ER. EH. _____

Final Offer Between

Milwaukee District Council 48 AFSCME AFL-CIO

and its Affiliated Local 2 (Clerical)

and

City of Greenfield

1. All signed stipulations or tentative agreements reached during current negotiations.

2. All other provisions of the current Agreement (January 1, 1983 through December 31, 1985) shall remain unchanged, except as modified by the tentative agreements or as follows:

   a) Article 14 - Holidays - Section A, Holidays (add the following at the end of Section A) Part-time employees, with twenty (20) hours or more shall receive the following holidays based on the average hours worked: Memorial Day, Fouth of July, Labor Day, Christmas Day and New Years Day.

   b) Article 22 - Residency
   All new employees of the City of Greenfield hired on or after January 1, 1986, shall be required to reside within the City limits of the City of Greenfield within one (1) year after successful completion of the six (6) month probationary period of employment. In the event that an employee covered under the terms of this Article fails to establish residency within the City of Greenfield within the said one (1) year or moves out of the City of Greenfield at any time during the term of his/her employment, the City of Greenfield may terminate his/her employment at its option.

AFM
pj/opeiu9afl-cio

Exhibit B

MULCAHY & WHERRY, S.C.
ATTORNEYS AT LAW

OFFICES:
MILWAUKEE
EAU CLAIRE
GREEN BAY
MADISON
OSHKOSH
SHEBOYGAN
WAUSAU
HOLLYWOOD FLA

815 EAST MASON STREET
MILWAUKEE WISCONSIN 53202-4080
TELEX 701101 • TELECOPIER 414 278-0837
414-278-7110

MELDMAN, CASE & WEINE DIVISION
WISCONSIN 800-242-9696
CABLE TAXCOUNSEL

May 30, 1986

Mr. Andrew Roberts
Investigator
Wisconsin Employment
Relations Commission
P.O. Box 7870
Madison, WI 53707-7870

Re: City of Greenfield Case No. 36239
Med/Arb - 3734

Dear Mr. Roberts:

Please be advised that the City does not propose any additional changes for the successor collective bargaining agreement other than those contained in the signed stipulation. It is our understanding that you have a copy of the signed stipulation in your file. Thus, as it relates to the two issues contained in the Union final offer, the City proposes no change in Article XIV or Article XXII.

Please contact the undersigned should you have any questions. A copy of this letter has been sent directly to Mr. Molter.

Very truly yours,

MULCAHY & WHERRY, S.C.

Gary M. Ruesch

GMR:drr
Enclosure
cc: Mr. Anthony F. Molter
Mayor David Kaczynski
Common Council