UFA, 5 OCB2d 3 (BCB 2012)

(IP/Scope) (Docket No. BCB-2958-11).

Summary of Decision: The UFA alleged that the City violated NYCCBL § 12-306(a)(1) and (4) when it refused to bargain over the decision to implement a program governing the procedure by which firefighters respond to certain non-emergency calls. It further alleged that the implementation of the program resulted in a practical safety impact over which the City also failed to bargain. The City argued that the UFA's petition is untimely, that the implementation of the program is within its managerial prerogative, and that there is no practical safety impact. The Board found that, to the extent the UFA's petition raises a safety impact claim, the petition was timely, but dismissed the improper practice portion of the petition. It further found that the UFA alleged sufficient facts to raise a material factual question as to whether the program's implementation creates a practical safety impact and ordered that a hearing be held on that issue. ***(Official decision follows.)***

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

In the Matter of the
Improper Practice/Scope of Bargaining Proceeding

-between-

UNIFORMED FIREFIGHTERS ASSOCIATION,
LOCAL 94, IAFF, AFL-CIO,

Petitioner,

-and-

THE CITY OF NEW YORK,

Respondent.

INTERIM DECISION AND ORDER

On May 16, 2011, the Uniformed Firefighters Association, Local 94, IAFF, AFL-CIO ("UFA" or "Union") filed a Verified Improper Practice and Scope of Bargaining Petition against the City of New York ("City"). The UFA claims that the New York City

Fire Department ("FDNY"), by unilaterally implementing a program governing the procedure by which firefighters respond to certain non-emergency calls and refusing to negotiate over the program's practical safety impact, violated § 12-306(a)(1) and (4) of the New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3) ("NYCCBL"). It further alleges that, even if the implementation of the program was within the FDNY's NYCCBL § 12-307(b) rights, it results in a practical safety impact on firefighters over which it must bargain. The City responds that the UFA's claims are untimely. It contends that the FDNY's decision to implement the program falls within its rights pursuant to NYCCBL § 12-307(b), and that there is no practical safety impact on firefighter safety resulting from its implementation. Finally, the City argues that any allegation of an independent or derivative violation of § 12-306(a)(1) is unsupported by the facts.

The Board finds that, to the extent the UFA's petition raises a safety impact claim, the petition is timely. It also finds that the decision to implement the program is not a mandatory subject of bargaining, and dismisses its improper practice claim. It further finds that the Union's impact allegations are sufficient to warrant a hearing in order to establish a record upon which the Board may determine whether there has been a practical safety impact.

BACKGROUND

The Modified Response Program

On August 26, 2010, FDNY Chief of Department Edward Kilduff forwarded a document titled "Modified Response Plan" ("Plan") to UFA President Stephen Cassidy.

The Plan described the implementation of a three month pilot program in the borough of Queens, wherein firefighters would respond to certain calls with their lights and sirens off and by observing all vehicle and traffic regulations, in what is known as "10-20 mode." Kilduff asked that the UFA provide the FDNY with any comments it had on the Plan.

The FDNY had employed a variety of modified response policies for over a decade prior to the initiation of the Plan. Those policies had reduced the number of incidents to which units responded with lights and sirens each year. Under the Plan, the FDNY expanded those policies by identifying additional call types that could be classified as "non-emergencies" where use of lights and sirens would be curtailed. (Ans., Ex. 1). According to the Plan, the purpose of the pilot program is "[t]o evaluate the impact of a modified response plan on fire operations as it relates to accident and injury prevention, unit availability and response times." (*Id.*). Its stated goal is to "provide an increased measure of safety to both firefighters and civilians while maintaining the highest level of service to the public." (*Id.*).

The Plan categorizes incidents into two call types. Group 1 consists of water leaks, trees down (no wires affected), lock-ins, salvage truck, and ERS no contact. These incidents are classified as "modified single unit emergencies and assigned single unit responses." (Ans., Ex. 1). Group 2 consists of odors (gas, fumes, etc. other than smoke), sprinkler/valve alarm, automatic alarms-Class 3, electrical emergencies, manhole emergencies, BARS-first due engine only (emergency mode), and Class E & J alarms-first due engine/ladder response (emergency mode). These incidents are classified as "modified multi-unit emergencies requiring the response of multiple units." (*Id.*). According to the Plan, units responding to Group 1 call types would operate in 10-20

mode. First due units responding to Group 2 calls would respond in emergency mode while second and third due units would respond in 10-20 mode.[1] (Ans., Ex. 1).

In a September 17, 2010 letter, the UFA provided the FDNY with a list of questions and comments pertaining to the Plan. In the letter, the UFA expressed its concerns about retraining for implicated units, response times, and firefighter and civilian safety, among other issues. By letter dated September 29, 2010, the FDNY provided its responses to the questions raised by the UFA.

On October 4, 2010, the FDNY implemented the pilot program for a 90-day period in the borough of Queens. On March 9, 2011, the UFA and the FDNY held a meeting at which the FDNY informed the UFA that it intended to expand the pilot program to the boroughs of Brooklyn and Staten Island. At the meeting, the UFA expressed its concerns about safety issues with regard to the pilot program and requested bargaining over the FDNY's decision to expand it to two other boroughs, as well as the safety impact of the decision. The FDNY rejected the UFA's bargaining request. On or around March 22, 2011, the FDNY issued a policy expanding the pilot program to Brooklyn and Staten Island ("Modified Response Program" or "Program"). The Modified Response Program went into effect in those boroughs on April 4, 2011.[2]

The March 4, 2011 Fire

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[1] First due units are those that are assigned to arrive first to a call location within specific geographical areas known as "boxes." Second due units provide secondary coverage for the box location and are expected to arrive second to the scene, after the first due unit, in the event that two units are assigned to the call. Third due units are expected to arrive third to a call within a box location.

[2] Subsequent to the filing of the instant petition, the FDNY implemented a similar modified response program in Manhattan and the Bronx.

On March 4, 2011 at 7:03 p.m., a 911 caller reported a gas leak at a location in Richmond Hill, Queens. Battalion Chief 51, Engine 308, and Ladder 126 were deployed to the location in emergency mode, while Engine 303 and Ladder 142 were dispatched in 10-20 mode, pursuant to the Plan. Upon arriving at the scene, the firefighters discovered a structural fire and radioed a "10-75" signal to indicate there was a fire emergency at the scene. The 10-75 signal cancelled out the modified response of Engine 303 and Ladder 142, which were already en route, and they thereafter proceeded to the scene in emergency mode. Additional units were subsequently dispatched to the scene.

The fire required approximately 25 units to respond and more the 100 firefighters to extinguish the fire after approximately an hour and a half. Seven firefighters and one lieutenant reported injuries as a result of the March 4, 2011 fire.[3] The structure in which the fire originated was rendered uninhabitable.

POSITIONS OF THE PARTIES

Union's Position

The UFA argues that the FDNY has refused to collectively bargain over the institution and implementation of the Modified Response Program, in violation of NYCCBL § 12-306(a)(1) and (4).[4] It claims that the protocols set forth in the Plan and

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[3] The injuries sustained were two shoulder strains, a neck strain, a neck burn, two neck contusions, a wrist burn, and a lower back sprain or strain.

[4] NYCCBL § 12-306(a) provides, in pertinent part:

> It shall be an improper practice for a public employer or its agents:

carried through to the Modified Response Program dictated a "leisurely and unexpeditious response" to the March 4, 2011 fire, which resulted in its exacerbation and ultimately the firefighter injuries. (Pet. ¶ 36).

The UFA further contends that the implementation of the Modified Response Program creates a practical impact on firefighter safety. It argues that decisions within the FDNY's managerial prerogative which are found to have a practical impact on safety are within the scope of mandatory bargaining. In the instant matter, the practical safety impact resulting from the implementation of the Modified Response Program can be demonstrated by analyzing whether there are "elements of danger associated with" and "'inadequacies' inherent to a particular exercise of a public employer's management prerogative." (Pet. ¶ 45).

The UFA asserts that the March 4, 2011 fire highlighted the elements of danger associated with the Modified Response Program, particularly the requirement that responding units proceed to certain calls in 10-20 mode instead of emergency mode, which results in a critical loss of time and a delay in unit availability. For example, it

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> (1) to interfere with, restrain or coerce public employees in the exercise of their rights granted in section 12-305 of this chapter . . .
>
> (4) to refuse to bargain collectively in good faith on matters within the scope of collective bargaining with certified or designated representatives of its public employees;

NYCCBL § 12-305 provides, in pertinent part:

> Public employees shall have the right to self-organization, to form, join or assist public employee organizations, to bargain collectively through certified employee organizations of their own choosing and shall have the right to refrain from any of all of such activities.

alleges that the first due Engine 308 had to wait "several minutes" for the arrival of the second due company to assist in stretching a hose line at the March 4, 2011 fire. (Pet. ¶ 20). As a result of this and other delays, "a reported gas leak turned into a 2nd Alarm fire." (Pet. ¶ 21). It asserts that inadequacies inherent in the Program create a practical impact on safety, including the FDNY's failure to properly train employees regarding the Program, adhere to its protocols, and "ameliorate" the health risks and hazards it created. (Pet. ¶ 49). Moreover, the Modified Response Program runs contrary to the FDNY's "two-in-two out" requirement, which mandates that two engine companies must stretch a hoseline into an IDLH area.[5] (Rep. ¶ 55). In the event that a call covered by the Program turns into a fire emergency, the requisite number of units would be proceeding to the scene at "drastically different rates of speed and urgency." (*Id.*).

Finally, the UFA contends that the Board has held that "[r]ules that govern work places, prohibit certain conduct, and set forth standard operating procedures" have, in the past, been found to be mandatory subjects of collective bargaining. (Pet. ¶ 56). It asserts that the Modified Response Program dictates the manner in which firefighters perform their function and governs a particular aspect of their workplace. Therefore, the Modified Response Program involves a mandatory subject of bargaining pursuant to NYCCL § 12-307(a). The FDNY's "rebuffing" of the UFA's requests to bargain over implementation of the program constitutes a violation of NYCCBL § 12-306(a)(1) and (4).

The UFA rejects the City's timeliness defense on the ground that the FDNY's decision to implement the pilot program in Queens is a distinct occurrence from its

[5] IDLH stands for "Immediately Dangerous to Life and Health." (Rep. ¶ 40).

decision to implement the Modified Response Program in Brooklyn and Staten Island. It argues that the designation of a "pilot program," indicates a temporary, experimental measure in the parlance of labor law. Moreover, the pilot program and the Modified Response Program have different notification and implementation dates, address units in different boroughs, and refer to separate supervisors and chains of command charged with overseeing the two distinct programs. Finally, if the Modified Response Program were considered merely an extension of an existing FDNY decision, then all managerial decisions regarding "general, expansive topics" would thereafter be similarly considered. (Rep. at 12).

City's Position

The City argues that the UFA's petition is untimely, pursuant to NYCCBL § 12-306(e) and § 1-07(b)(4) of Title 61 the Rules of the City of New York ("RCNY").[6] It claims that the UFA's allegation is based on the initial implementation of the Plan on October 4, 2010. The UFA had been aware of the Plan since August 26, 2010, when it communicated about it with the FDNY. The City argues that, even using the October 4, 2010, implementation date as the date that the statute of limitations commenced, the UFA

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[6] NYCCBL § 12-306(e) provides, in pertinent part:

> A petition alleging that a public employer or its agents or a public employee organization or its agents has engaged in or is engaging in an improper practice in violation of this section may be filed with the board of collective bargaining within four months of the occurrence of the acts alleged to constitute the improper practice or of the date the petitioner knew or should have known of said occurrence.

RCNY § 1-07(b)(4) provides, in pertinent part, that an improper practice petition filed pursuant to NYCCBL § 12-306 "must be filed within four months of the alleged violation."

still failed to timely file its petition. Since the Program was instituted in Queens over four months prior to the filing of the petition, and the UFA's membership had already been exposed to it dating back to October 2010, the UFA's claim is therefore untimely.

Substantively, the City argues that the UFA's claim that the City violated NYCCBL § 12-306(a)(1) and (4) fails because it is not required to bargain on subjects that fall within its managerial rights under NYCCBL § 12-307(b). In the instant matter, the FDNY determined that responding in 10-20 mode to specific non-fire and non-life threatening incident calls is the safest and most effective manner by which to respond to these calls. The City contends that, in making this determination, the FDNY exercised its managerial prerogative to "determine the manner and means by which such services are to be rendered." (Ans. ¶ 63). The City asserts that it maintains the ability to direct the delivery of vital emergency services and thus it must be able to exercise this prerogative. The NYCCBL does not require bargaining over such a determination, and the Board has recognized it as a management right and a non-mandatory subject of bargaining.

Second, the City contends that there has been no practical safety impact resulting from the implementation of the Modified Response Program. Citing prior Board decisions, the City states that bargaining over an alleged practical impact from an exercise of managerial prerogative does not become mandatory until the Board declares that an impact exists and the employer fails to correct or minimize the impact. The UFA bears the burden of demonstrating a practical impact on its members as a result of the managerial decision to implement the program. The City contends that, in the instant matter, the UFA has failed to demonstrate any causal connection between the injuries to

the firefighters at the March 4, 2011 fire and the Modified Response Program.[7] As there is no duty to bargain until the Board determines that a practical impact exists, the City asserts that the UFA's claims of practical impact are without merit and must be dismissed.

Finally, the City argues that there is no independent or derivative violation of NYCCBL § 12-306(a)(1). The City contends that the claim of an independent violation of the statute should be dismissed because the FDNY did not "interfere with, restrain or coerce public employees" in the exercise of his or her rights granted in NYCCBL § 12-305. (Ans. ¶ 82). Moreover, the City argues that it has demonstrated that there has been no violation of NYCCBL § 12-306(a)(4). Consequently, there can be no derivative violation of NYCCBL § 12-306(a)(1).

DISCUSSION

As a threshold matter, we address the City's argument that the UFA's petition is untimely. The Board has long held that claims of practical impact, including safety impact, are not considered to be improper practice claims, since there is no duty to bargain unless and until the Board determines that a practical impact exists. *See SBA*, 41 OCB 56, at 15-16 (BCB 1988). Accordingly, such claims, even if filed as improper practice charges, are deemed or treated by the Board as scope of bargaining claims. *Id.; see NYSNA*, 71 OCB 23, at 12 (BCB 2003). In addition, the Board has expressly stated that, because they are in the nature of scope of bargaining claims, the four-month statute

[7] The City further contends that no hearing in this matter is necessary since there is no factual dispute that there was a fire on March 4, 2011 in Richmond Hill, Queens which resulted in injuries to several firefighters. However, according to the City, this does not demonstrate evidence of a practical impact.

of limitations applicable to improper practices is not applicable to practical impact claims. *See UFOA*, 3 OCB2d 50, at 16 (BCB 2010); *EMS Superior Officers Assn.*, 75 OCB 15, at 15 (BCB 2005). As a result, the statute of limitations does not preclude consideration of the UFA's practical safety impact claim. Since we must consider the merits of this claim, we do not reach the question of the timeliness of the related failure to bargain claim.

Turning to the merits, we must determine whether the FDNY violated NYCCBL § 12-306(a)(4) by refusing to bargain with the UFA over the subject of the implementation of the Modified Response Plan. In order to resolve this issue, we must first establish whether the implementation of the Modified Response Program is a mandatory subject of bargaining. Mandatory subjects of bargaining include terms and conditions of employment, which have been defined as wages, hours, and working conditions and any subject with a significant or material relationship to a condition of employment. *See LEEBA*, 3 OCB2d 29, at 5 (BCB 2010). It is an improper practice under NYCCBL § 12-306(a)(4) for a public employer to refuse to bargain in good faith on matters within the scope of collective bargaining, which includes all mandatory subjects of bargaining. *See DC 37, L. 1549*, 69 OCB 37, at 7 (BCB 2002).

This Board has repeatedly held that "decisions regarding the selection or use of equipment involve the City's discretion over the methods, means and technology of performing its work." *LEEBA*, 3 OCB2d 29, at 48 (BCB 2010) (citing *UFA*, 61 OCB 6, at 7 (BCB 1998)). In *UFA*, 61 OCB 6, the UFA filed an improper practice petition alleging that the City failed to negotiate over the location of a depot where it stored firefighter clothing and equipment. *Id.* The Board rejected the petition, holding that

decisions "concerning the management of its property" are reserved to the City. *Id.* at 7. In *LEEBA*, 3 OCB2d 29, the Board rejected a union's demand for negotiation over changes in the City's selection and use of transportation vehicles and equipment based on "well-established holdings" that such proposals are non-mandatory bargaining subjects. *Id.*, at 48; *see also UFA*, 43 OCB 4, at 191-93 (BCB 1989) (equating an employee demand for the provision of a decontamination facility to an equipment demand and finding it a non-mandatory subject of bargaining).

Similarly, PERB has long held that "it is within an employer's discretion to determine the equipment it needs to carry out its mission of providing services to the public." *County of Nassau*, 41 PERB ¶ 4552 (2008) (Maier, ALJ); *see Peekskill City Sch. Dist.*, 16 PERB ¶ 4586 (1983); *City of New Rochelle*, 10 PERB ¶ 3042 (1977). In *County of Nassau*, the union alleged that the employer violated the Taylor Law by refusing to negotiate over its decision to install GPS tracking devices in vehicles driven by employees on the job. *Id.* The ALJ concluded that the utilization of GPS technology was a management prerogative because it related to the "manner and means by which an employer is providing services to the public." *Id.* He noted that it was unnecessary to balance the union's asserted privacy interest because the initial decision to utilize the GPS equipment was not a mandatory bargaining subject. *Id.*; s*ee also Rochester Police Locust Club, Inc.*, 36 PERB ¶ 3003 (2003) (finding that the City's decision to unilaterally implement an anti-crime initiative implicating overtime for certain employees was within its discretion to "determine the method and means to deliver services to the public.")

Consistent with these holdings, the FDNY's decision to implement a policy governing the use of lights and sirens on their vehicles falls squarely within its statutory

right to "direct its employees, maintain efficient governmental operations, and determine the methods, means, and personnel by which government operations are to be conducted." *See* NYCCBL § 12-307(b); *see also DC 37*, 75 OCB 13, at 9 (BCB 2005) (noting that the rights identified in § 12-307(b) are statutorily "prebalanced," eliminating the need to weigh the balance the competing interests of each party). In short, the FDNY has discretion to determine and direct the operation of its vehicles. Accordingly, we find that the FDNY did not violate NYCCBL § 12-306(a)(4) by unilaterally implementing the Modified Response Program, and we therefore dismiss the UFA's improper practice claim.[8] Because we find no NYCCBL § 12-306(a)(4) violation, we also find that there is no derivative violation of NYCCBL § 12-306(a)(1), and dismiss that claim.

However, when an employer promulgates a policy or order in the exercise of its managerial prerogative, NYCCBL § 12-307(b) recognizes that a practical impact on matters of employment, including employee safety, may result. *See COBA*, 49 OCB 40, at 13-14 (BCB 1992). This Board has stated that the issue of whether the FDNY's managerial decisions have a practical impact on firefighter safety, upon a proper showing, poses a factual question to be determined following a hearing. *See UFA*, 4 OCB2d 30, at 26 (BCB 2011) (citing *UFA*, 43 OCB 4, at 244-47 (BCB 1989), *aff'd. sub nom., Matter of Uniformed Firefighters Assn. v. New York City Office of Collective Bargaining*, Index No. 12338/89 (Sup. Ct. N.Y. Co. Oct. 30, 1989), *aff'd.*, 163 A.D.2d 251 (1st Dept. 1990)).

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[8] The City contends that the UFA has not alleged facts to support a claim of an independent violation of NYCCBL § 12-306(a)(1). We find no evidence that the UFA has attempted to state a claim that the FDNY has in any way "interfere[d] with, restrain[ed] or coerce[d] public employees in the exercise of their rights," pursuant to NYCCBL § 12-306(a)(1). We therefore do not consider this issue.

The Board has articulated the pleading standard for a practical impact on safety, as follows:

> We have interpreted the language of NYCCBL § 12-307(b) to require initially that a union offer allegations of specific facts in support of its claim of practical impact. Conclusory statements or vague or non-specific allegations are not sufficient to prove practical impact or to warrant a hearing into whether a practical impact exists.

UFA, 4 OCB2d 30, at 30; *see also EMS Superior Officers Assn.*, 75 OCB 15, at 17 (to satisfy its burden, the union must "substantiate with sufficiently specific details . . . the existence of a threat to safety before we will require the employer to bargain"). Since the existence of a practical safety impact is a factually-based question, we must evaluate the parties' pleadings to determine whether there is a sufficient basis for a hearing. *See UFA*, 4 OCB2d 30, at 30-31.

The UFA contends that the implementation of the Modified Response Program creates a practical impact on safety and thus is a mandatory bargaining subject over which the FDNY refused to bargain, in violation of the NYCCBL. Yet there can be no duty to bargain over a practical impact unless and until this Board makes a finding that a practical impact exists. *See UFA*, 71 OCB 13, at 6 (BCB 2003). Therefore, we interpret the UFA's practical impact claim to state that it has offered allegations of material facts sufficient to warrant a hearing on the practical safety impact of the Program on firefighters.

As discussed, *supra*, the UFA alleges that the FDNY's policy of responding in 10-20 mode to certain non-emergency calls resulted in a delay in response time to the March 4, 2011 fire which directly resulted in a practical safety impact on firefighters at the scene. Specifically, it asserts that second due and subsequent units initially proceeded

to the scene in 10-20 mode, pursuant to the Modified Response Program, based on a report of a gas leak. Because of this, it claims that the first due engine company was forced to wait several minutes for the second due company to arrive in order to stretch a hoseline. According to the UFA, the delayed arrival of additional companies caused the fire to grow "exponentially" and, in turn, resulted in injuries to a number of firefighters at the scene. The City disputes these claims, contending that the UFA cannot demonstrate that there was any causal connection between the injuries sustained by the firefighters and the Modified Response Program or that the Program caused any actual delay that resulted in a larger fire.

We find that the UFA has offered sufficient factual allegations as to whether the FDNY's implementation of the Modified Response Program resulted in or has the potential to result in a practical impact on the safety of firefighters to warrant that a hearing be held on this issue. Accordingly, we direct that a Trial Examiner designated by the Office of Collective Bargaining hold a hearing in this matter. At that time, the parties will have the opportunity to present evidence for the purpose of establishing a record upon which this Board may determine whether the credible evidence supports the conclusion that a practical safety impact has occurred or could occur in the future as a result of the implementation of the Modified Response Program. *See UFOA*, 3 OCB2d 50, at 18.

ORDER

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

ORDERED, that the Verified Improper Practice Petition filed by the Uniformed Firefighters Association, Local 94, IAFF, AFL-CIO, docketed as BCB-2958-11, is hereby dismissed; and it is further

ORDERED, that a hearing be held as to the scope of bargaining portion of the petition to ascertain whether the FDNY's implementation of the Modified Response Program results in a practical impact on the safety of UFA members.

Dated: January 25, 2012
New York, New York

MARLENE A. GOLD
CHAIR

GEORGE NICOLAU
MEMBER

M. DAVID ZURNDORFER
MEMBER

PAMELA S. SILVEBLATT
MEMBER

PETER PEPPER
MEMBER

I dissent – see opinion.

CHARLES G. MOERDLER
MEMBER

BCB-2958-11

I dissent from so much of the decision and Order as dismissed the Improper Practice Petition.

Initially, I note that the majority errs yet again in premising its holding upon the erroneous notion the NYCCBL Section 12-307b validly creates or warrants some sort of enforceable "managerial prerogative" or "management right." It does not. It squarely conflicts State law and thus is devoid of force, a point I have repeatedly noted in dissent. See., e.g, Uniformed Firefighters Association, Bcb-2648-07 and Uniformed Firefighters Association,, Decision No. B-2-2004, Dkt No., BCB-2314-02.

Moreover, in my view it is sophistry to suggest that a directive that Firefighters leisurely meander to respond to an emergency gas leak – one that turned out to be a raging inferno that required more than 100 firefighters to quell it and caused multiple injuries – involves, as the City and majority so quaintly put it "the selection or use of equipment." The issue here has little, if anything, to do with equipment other than that Firefighters use firetrucks rather than bicycles to get to fires and that those firetrucks deploy lights and sirens. The gravamen of this dispute is whether one responds to an emergency as though it is an emergency or whether one views it as a leisurely Sunday outing and whether that raises a bargainable issue. Indeed, the fact that at the same time as Engine 303 and Ladder 126 were "dispatched in [the leisurely] 10-20 mode," the Battalion Chief and Engine 308 and Ladder 126 "were deployed to the location in emergency mode" not only demonstrates recognition by the FDNY of the utter folly of its exercise in putting Firefighters needlessly in harms way, it makes manifest both the wisdom and need for bargaining. One important function of collective bargaining is to reveal and, hopefully, find alternatives to imperious notions that lack common sense or merit.

I would sustain the Improper Practice Petition.

January 25, 2012

Charles G. Moerdler