

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING
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In the Matter of

THE CITY OF NEW YORK,

DECISION NO. B-4-77

Petitioner,

DOCKET NO. BCB-13-77
(I-126-76)

-and-

THE POLICE BENEVOLENT ASSOCIATION
OF THE DISTRICT ATTORNEY'S OFFICES,
CITY OF NEW YORK, INC.,

Respondent.

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O R D E R

On April 20, 1977, we issued our Decision No B-3-77 in this case, modifying certain of the recommendations issued by an impasse panel on February 18, 1977. We granted the City's request for modification pursuant to its allegations concerning requirements of the Financial Emergency Act ¹ and rulings and guidelines of the Emergency Financial Control Board.

The Report and Recommendations of the Impasse Panel is attached hereto and made a part hereof.

¹ Laws of 1975, Chapter 868, as amended.

In accord with our policy of permitting the parties a short period of time to attempt to accomplish mandated modifications by mutual agreement, we held that:

"If the parties fail within 10 days of receipt of this decision to report back to the Board with the details of an agreement on the method for accomplishing the mandated adjustments, the Board will make the adjustments and reduce the wage increases for each employee on a per capita basis.."

The parties having failed to reach any agreement concerning modifications to the impasse panel recommendations pursuant to requirements of the Financial Emergency Act, the Board held a conference with the parties on May 9, 1977, in the hope that an agreement might result. However, no settlement was reached, and on May 11th and 12th 1977, the City set forth by letter its final position as to permissible wage increases pursuant to the Financial Emergency Act and guidelines promulgated thereunder by the Emergency Financial Control Board. The Union received copies of these letters, and has not challenged the assertions contained therein concerning the guidelines of the Emergency Financial Control Board.

We shall therefore order modification of the impasse panel recommendations based on the city's representations as to the requirements imposed by the Financial Emergency Act and the Emergency Financial Control Board. We note, however, that we do not administer or interpret Emergency Financial Control Board wage guidelines rulings pursuant to the Financial interpret and implement rulings pursuant to the Financial Emergency Act is the Emergency Financial Control Board itself. Therefore, the implementation of a contract in conformance with Emergency Financial Control Board rulings on the City' s financial plan is subject to the requirements of the Financial Emergency Act as interpreted and approved by the Emergency Financial Control Board.²

The city, in its letter of May 11, 1977, has indicated that percentage increases should be computed on a per capita basis, that is, the appropriate percentage increase should be added "to the minimum and maximum of each title or to any other rate which an employee

² Financial 'Emergency Act 57 authorizes the Emergency Financial Control Board to develop and implement a financial plan for the City of New York, -and FEA 57.e provides that all contracts entered into by the city - . . . must be consistent with the provisions of this act and must comply with the financial plan as approved by the (EFCB)."

received which falls within the minimum and maximum rates." The Union has not objected to this method of computation and, therefore, our order should be read to provide per capita increases of the indicated amounts,

As we noted in Decision No. B-3-77, the Emergency Financial Control Board has not yet ruled on the precise applicability of its guidelines to contracts, such as the instant one, which did not begin on July 1, 1974, nor do we have authoritative interpretations of Emergency Financial Control Board rules. Thus, there may be a question whether those retroactive contracts whose term begins on January 1, 1975, as does the instant contract, are subject to deferral of the 6% Wage increase of 1975, and/or are subject to deferral of a 3% increase effective January 1, 1976. The ultimate decision of this issue rests with the Emergency Financial Control Board," and the implementation of these two items must therefore await an Emergency Financial Control Board determination as to the rule which must apply in such cases. In the meantime, however, the parties, based on this decision, will have the opportunity to prepare an application to the Emergency Financial Control Board setting forth a joint position on the open items.

O R D E R

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 Panel's recommendation for an 8% increase pursuant to the wage reopener effective January 1, 1974, be, and the same hereby is, affirmed; and it is further

ORDERED, that the Panel's recommendations be, and the same hereby are, modified to provide a 6% wage increase effective January 1, 1975, and a 3% wage increase effective January 1, 1976, all subject, where applicable, to Emergency Financial Control Board guidelines and approval (including deferral), and it is further

ORDERED, that the Panel's recommendations be, and the same hereby are, modified to provide a cost of living adjustment effective October 1, 1975 through June 30, 1976, computed by the City as a "lump sum adjustment" of \$50.00 and an "annualized adjustment" of \$283.50; and it is further

ORDERED, that the contract between the parties shall have a term from January 1, 1975 to June 30, 1976; and it is further

ORDERED, that to the extent any of the Panel's recommendations exceed the amounts permitted by the Emergency Financial Control Board as set forth in this Order, they be, and the same hereby are, declared void and of no effect.

DATED: New York, New York.
June 1, 1977.'

ARVID ANDERSON
C h a i r m a n

WALTER L. EISENBERG
M e m b e r

ERIC J. SCHMERTZ
M e m b e r

HARRY VAN ARSDALE, JR.
M e m b e r

VIRGIL B. DAY
M e m b e r

THOMAS J. HERLIHY
M e m b e r

DANIEL L. PERSONS
M e m b e r