

OFFICE OF COLLECTIVE BARGAINING

Local 508 Lifeguard Supervisor Union,
District Council 37, American Federation
of State, Country & Municipal Employees
AFL-CIO

Report

of

-and-

Fact Finder

The City of New York

I-19-68

On July 3, 1968 the Undersigned, as Mediator and Fact-finder, made certain recommendations which the above-named parties (and Local 461 Lifeguards Union) accepted as the settlement of their current contract dispute.

Among the items agreed to was the daily rates of pay for lifeguards during the new two year Collective Bargaining Agreement effective May 1, 1968, as follows:

	1 st year of contract (May 1, 1968)	2 nd year of contract (May 1, 1969)
Entering level	\$20/day	\$21/day
After two consecutive seasons experience on City beaches or pools	\$22/day	\$23/day
After four consecutive years experience on City beaches or pools	\$24/day	\$25/day

Also, as part of the settlement the parties agreed to submit the determination of the rates of pay for Lieutenants and Chiefs to fact finding before the Undersigned as Fact Finder.

In accordance therewith a fact finding hearing was held on July 9, 1968 at which representatives of the parties appeared and were afforded full opportunity to offer evidence and argument and to examine and cross examine witnesses. Also the parties expressly authorized me to conduct an independent investigation of all matters I deemed relevant and in any manner I saw fit.

My determinations are based on a careful study of the following:

1. The respective positions of the parties regarding comparability with the Assistant Supervisor (boatswain); the Supervisor (Lieutenant); and the Senior Supervisor (Captain) at Jones Beach.
2. Where applicable the pay rates at other non-city beaches in the near geographical area.
3. The respective positions of the parties regarding comparability with seasonal park foremen and seasonal general park foremen.
4. The bargaining history of the parties, including the rates agreed to effective May 1, 1968 for lifeguards; the agreement for the first time on a higher rate of pay for lifeguards with four consecutive seasons of experience on City beaches or pools; and the previous differentials between lifeguards and lieutenants and between lieutenants and chiefs.
5. The respective economic conditions of the parties.
6. My judgment of a fair, equitable and realistic rate of pay with which both sides can live.

In some respects I find comparability respectively between Lieutenants and Chiefs employed by the City, and Supervisors (Lieutenants and Senior Supervisors (Captains) employed at Jones Beach. But there are significant differences as well. The similarities relate to supervision over stretches of beach and subordinate lifeguards. However, as an example of a difference, some of the responsibilities of a Lieutenant square with those of the Assistant Supervisor (Boatswain) at Jones Beach especially because both, at their respective beaches, represent the first promotional opportunity available to lifeguards. Also, the administrative responsibilities of the Jones Beach Captain exceed and significantly differ from what is required of the Chief employed by the City. Accordingly, in applying this test of comparability alone it would appear that a Lieutenant employed by the City ought to receive a wage rate higher than that of a Jones Beach Boatswain (presently \$25.20), but not quite as much as a Jones Beach Lieutenant (at \$28.80). And, similarly, the pay of a City-employed Chief should approach, but not equal, the present pay of a Jones Beach Captain (averaging \$33.00).

Also relevant to any determination of a proper rate of pay are the pay scales of other comparable but non-city beaches in the near geographical area, especially those on the ocean such as the Jersey shore. There is no dispute that the rates of pay on those beaches are less than what the City pays and less than what is being paid at Jones Beach. So, though the City concedes that its "principal competition" comes from Jones Beach, these other rates of pay may not be wholly discounted.

I am not able to reach any determinative finding from a comparison of the jobs of Lieutenants and Chiefs with those of the seasonal Park Foremen and Seasonal General Park Foreman. The differences exceed the similarities. Though the park foreman, on a seasonal basis, works primarily at the beaches, his duties involve maintenance, and cleaning, and the supervision of personnel assigned to perform those tasks. He has no life-saving functions; nor does he handle life saving equipment; nor does he deal with personnel ,with those responsibilities. So, any comparison involves an attempt to equate wholly different duties, albeit at the same location. Therefore, I am not persuaded that any sound conclusions can be reached one way or the other. Moreover, even though the Seasonal Park Foremen and the Seasonal General Park Foremen, like the Lieutenants and Chiefs, perform their duties at the beaches, the dissimilarities become all the more enlarged by the fact that the former two may be called up and required to perform duties elsewhere within the Park Department, the nature of which have no relation whatsoever to the beaches.

Of significance to my mind, however, is the bargaining history of the parties and the current settlement of the wage rates for lifeguards. In the expired contract a \$4.00 differential existed between the top lifeguard pay and the pay for Lieutenants. But it must be noted that the top lifeguard pay then applied to all lifeguards with more than two seasons' experience. In the new contract, the City, based on my recommendation, granted the Union's demand for a "third tier" amongst lifeguards, by fixing a new and higher rate of pay for lifeguards with four or more seasons of consecutive experience. To

grant this benefit represented not only an additional expense to the City, but a significant new benefit to the employees. It introduced into the new contract a factor that did not exist in the old. It accords to the 4 year men not only greater recognition but establishes a basis to expect of them greater responsibilities in the performance of their assignments. Hence, I deem it both proper and appropriate to take a new look at what had previously been a \$4.00 differential between the lifeguards and Lieutenants. Under the new wage rate, lifeguards with two seasons of experience will receive \$22.00 a day during the first year of the contract, and \$1.00 additional during the second. If, as in the past, Lieutenants are to receive \$4.00 more than the two year lifeguards, their pay would be pegged at \$26.00 and \$27.00 respectively in each year of the contract.

But this would provide them with a rate of pay very close to that which the City granted lifeguards with four or more seasons' experience. Indeed, only a \$2.00 differential would exist. I consider this inadequate.

On the other hand, to require the City to maintain an immediate \$4.00 differential between the new top lifeguard rate of \$24.00 a day would be to impose an additional economic burden on the City as a direct consequence of its willingness to grant new wage rate for lifeguards with four or more seasons' seniority. In short, it would penalize the City for the benefit it extended to senior lifeguards. So, while a \$2.00 differential is not enough for the Lieutenants, an immediate \$4.00 differential between the new lifeguard rate and the pay for Lieutenants is not fair to the City.

Yet, because of the prior bargaining recognition of pay distinctions between lifeguards and Lieutenants, I am persuaded that there is justification for reestablishment of the \$4.00 differential during the life of the contract. And, coupled with my finding that the Lieutenant's rate of pay and that of the Chiefs has some comparability with Lieutenants and Captains at Jones Beach, I think it logical, therefore, that this be realized at the beginning of the second year of the contract. But I see no reason why the existing differential between Lieutenants and Chiefs should not be continued throughout the new contract.

I believe this approach is fair, responsible and realistic, and consistent with the material facts. And though it is not what each side wished, it is what each side can and should be able to live with. Accordingly, based on all the facts before me, I find as follows:

Effective May 13, 1968, the daily rate of pay for Lieutenants should be \$27.00

Effective May 1, 1969, the daily rate of pay for Lieutenants should be 429.00

Effective May 1, 1968, the daily rate of pay for Chiefs should be \$31.00

Effective May 1, 1969, the daily rate of pay for Chiefs should be \$33.00

Dated: July 15, 1968
New York, N. Y.

Eric Schmertz