

N. Y. C.
Office of
Collective Bargaining

Local 508, Lifeguard Supervisors Union,
of District Council 37, Amer. Fed. of
State, County and Municipal Employees
(AFL-CIO)

and

Report
of
Impasse
Panel

The City of New York

Case No. I-64-70

The undersigned, having been duly designated as a one-man Impasse Panel by the Office of Collective Bargaining pursuant to its rules, makes this report and these recommendations to resolve the dispute over wages, docketed I-64-70, between the City of New York. and Local 508, District Council 37, AFSCME.

The Panel Chairman conducted hearings on the dispute August 5, 6, and 10, 1970, at which representatives of the above captioned parties appeared and were afforded full opportunity to offer evidence, testimony, argument and to examine and cross-examine witnesses.

FACTS

1. The parties have negotiated and reached agreement on the terms of a new collective bargaining agreement, except on the sole issue of the wages to be paid during the 2 years of the new agreement from May 1, 1970 to April 30, 1972, to:

- A) Lifeguards, detailed as Lieutenants, hereinafter referred to as Lieutenants.
- B) Chief Lifeguards, hereinafter referred to as Chiefs.

2. It is the absence of agreement between the parties on wages which constitutes the sole issue of the impasse, and it is that issue to which this report and these recommendations are addressed.

3. The Union's per diem Wage demands, unacceptable to the City, are:

	<u>1969 Rate Paid</u>	<u>May 1, 1970 Incr. New Rate</u>	<u>May 1, 1971 Incr. New Rate</u>	<u>2 Year Total Incr.</u>
Lt.	29.00	8.75	37.75	11.75
Chief	33.00	10.00	43.00	13.50

4. The City's per them wage offer, unacceptable to the Union, is:

	<u>1969 Rate Paid</u>	<u>May 1, 1970 Incr. New Rate</u>	<u>May 1, 1971 Incr. New Rate</u>	<u>2 Year Total Incr.</u>
Lt.	29.00	3.00	32.00	4.00
Chief	33.00	3.00	36.00	4.00

5. The gulf between the parties, for the Contract Term is \$7.75 per them for Lieutenants and \$9.50 per diem for Chiefs. It is this vast gulf between the parties, which expert mediation did not succeed in reducing, which constitutes the impasse to which the Panel needs to address itself, even though the scope of the difference between the parties strongly suggests that this dispute was not ripe for Fact-Finding and Recommendation. Both parties indicated a disposition to amend slightly their respective positions. But these changes in position were so limited in scope as to cast considerable doubt on the possibility of acceptance by the Parties of the Findings and Recommendations

below. However, it is the Panel's obligation to formulate its Recommendations, irrespective of what disposition it anticipates will ultimately be made of them by the Parties.

FINDINGS AND RECOMMENDATIONS

6. The Panel Chairman sees little purpose in reviewing all the arguments submitted by the Parties to justify their respective positions for the reason that they appear verbatim in the stenographic record of the hearing, and are summarized in the exhibits submitted to the Panel.

7. The Panel deems it appropriate to start the delicate task of constructing a wage pattern for these two groups of Supervisors by first focusing on the issue of the Lieutenants and once having put that to rest, use it as the foundation building-block to reach a conclusion on an equitable rate for Chiefs.

8. The 1970-72 Contract between the Municipality and the Lifeguards resulted in the following:

	<u>5/1/69</u>	<u>5/1/70</u>	<u>New</u>	<u>P.D.</u>	<u>5/1/71</u>	<u>Total</u>
	<u>Rate</u>	<u>P.D.</u>	<u>P.D. Rate</u>	<u>Incr.</u>	<u>New</u>	<u>Incr.</u>
		<u>Incr.</u>			<u>P.D. Incr.</u>	<u>Incr.</u>
Lifeguards W/2 yrs. or more - 174	23.00	5.00	28.00	1.00	29.00	6.00
Lifeguards W/4 yrs. or more - 360	25.00	3.00	28.00	1.00	29.00	4.00

9. It is noted that the per them increases agreed on in the Lifeguard settlement, averaged out among all 614 lifeguards, produces a mathematical average per them increase of \$4.044. Though this average has been computed it is essentially an abstract mathematical manipulation of interest because it defines

the total increase in wage costs for this group of employees. The fact remains, however, that the actual increase in per diem rates for Lifeguards of 2 years or more service, agreed to between the parties was \$5.00 for the first year, and \$1.00 for the second year, or a total of \$6.00 for two years.

10. it is further noted that among those lifeguards whose rate were increased, a total of 434, the average increase is \$4.66 over two years. It is undoubtedly higher because effective June 1, 1971, a number of lifeguards will move into the category of 2 years or more service, and will therefore receive \$5.00 per day increases. Just how many lifeguards are in this category is not known. However, the larger such group is the greater will be its impact on pushing this \$4.66 average increase upward.

11. Because some of the lifeguard subordinates of the Lieutenants received in fact a \$6.00 per them increase over two years, and because in toto those lifeguards who did in fact receive increases, received an increase which over two years averages out at \$4.66 plus, and because supervisors, it is believed, should receive on the whole not less than their subordinates, but should receive salary adjustment equitably related to those granted those who report to them, it is therefore found that the City's offer of \$4.00 per them to Lieutenants does not meet what seems an appropriate and fair offer, and it is therefore found and recommended that the parties agree to a total increase, for the life of the new agreement, of \$5.00 per day to Lieutenants, broken down as follows:

	<u>1969</u> <u>P.D. Rate</u>	<u>May 1, 1970</u> <u>Incr. New Rate</u>		<u>May 1, 1971</u> <u>Incr. New Rate</u>	
Lt.	29.00	3.00	32.00	2.00	34.00

Dollar differential over

Lifeguards with 4 years service

4.00	4.00	5.00
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13. In making the above recommendation the Panel also took into consideration the wages paid to those Jones Beach Supervisors, who perform functions similar to Lieutenants, and whose work site is virtually "next-door" to the work place of the Lieutenants. The weight accorded this factor of comparability was not such as to cause the Panel to establish instant-parity, but rather to move towards that objective. In that connection it is noted that Jones Beach Boatswains received a \$2.00 per day increase in 1970 over what their rate was in 1969, and Senior Supervisors (Lieutenants), received an increase of \$2.40 per diem in 1970 over their rate in 1969. The first year increase recommended above permits a degree of "catching up," which while not all the Union would wish, is not so rapid as to burden the municipality in its efforts to cope with its grave financial crisis.

14. Having determined what seems to the Panel Chairman an equitable per diem rate for Lieutenants for 1970 and 1971, the Panel used its recommendation as the foundation on which to build its solution to the problem of the Chief's rate.

15. It is found that the now rate must meet the need to retain a differential between the per them rate of Lieutenants and Chief which reflects the past history of such differential. Additionally, in establishing a proper rate for Captains due weight needs to be given to the higher order of qualifications

duties and responsibilities of Chiefs as compared to Lieutenants. Finally there is a need to give recognition, of some magnitude, to the comparability factor.

16. It is noted that since 1967 the differential between Lieutenants and Chiefs has been \$4.00 per day. it is also noted that the differential between Lifeguards, and Lieutenants with four years service, rose in 1969, and that it will in 1971 rise to \$5.00 if this report is accepted. This is illustrated as follows:

	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>
Differential	3.00	4.00	4.00	5.00

It is believed that equity requires that the above rise in differential between the Lieutenants, and Lifeguards with four years of service, not be ignored, but rather be reflected in a rise in the differential as between Lieutenants and Chiefs. The consequence of recommending the same \$2.00 increase in the Contract's second year, would be to continue a \$4.00 differential between Lieutenants and Chiefs, while the differential between Lieutenants and Lifeguards increased to \$5.00. Such a course seemed inequitable and imprudent, and therefore it has not been followed.

17. The Panel believes it necessary to take cognizance of the previous investigation, findings and recommendations of Fact Finder, Eric J. Schmertz, in his report of July 15, 1968 concerning rates for 1968 and 1969. Mr. Schmertz, after study and consideration, concluded for a variety of reasons, that there is "some comparability" between the rates paid N.Y.C. Chiefs and Jones Beach "Captains." in Mr. Schmertz's findings and recommendations this element of comparability was given

recognition in the second year of the predecessor contract.

My judgment has been, in part, shaped by and is in part based on the above finding. Thus I have concluded that these findings and recommendations must be so designed as to move towards closing the gap between N.Y.C. Chiefs and Jones Beach "Captains," not perhaps as fast as the Union would wish or as slowly as the City would desire.

18. Thus, taking all of the preceding enumerated factors into consideration, except one dealt with presently, it is found and recommended that a fair and equitable rate for the Chiefs would be as follows:

	<u>1969</u>	<u>May 1, 1970</u> <u>Incr.</u>	<u>New Rate</u>	<u>May 1, 1971</u> <u>Incr.</u>	<u>New Rate</u>	<u>Total</u> <u>Increase</u>
Chief	33.00	3.00	36.00	2.50	38.50	5.50
Dollar Differential over Lts. with 4 years service						
	4.00		4.00		4.50	

19. Comparing the 1970 per them increases of Jones Beach "Captains" with those proposed for N.Y.C. Chiefs reveals that the N.Y.C. Chiefs are gradually moving towards reducing the gap between their rates and that of Jones Beach "Captains." In the year 1970t under the terms of this recommendation, the N.Y.C. Chiefs would receive an increase of \$3.50 per week in excess of the increase paid to Jones Beach "Captains."

20. To obtain an overview of the differences between the Panel's recommendations and the City's offer,, and to get a proper perspective on the relative impact in annual base rate increases as between the Lifeguards and their Supervisors over the Contract period, the schedule below was prepared:

	<u>City Offer</u>	<u>Recommendation</u>	<u>Diff.</u>
L/G 2 years or more	120 x 6.00 = \$720.00	--	--
L/G 4 years or more	120 x 4.00 = \$480.00	--	--
Lts.	120 x 4.00 - \$480.00	120 x 5.00 - \$600.00	\$120.00
Chiefs	120 x 4.00 - \$480.00	120 x 5.00 - \$660.00	\$180.00

From the above chart, it readily can be seen that the differences between the Panel recommendations as to base rate increases over the two years of the Contract and the City's offer are modest. It is also evident that the two year base rate increment for both groups of Supervisors is substantially lower than the \$720.00 accorded the Lifeguards, with two years or more service. Finally, while the Panel is convinced, as noted previously, that equity requires the above pattern, it is also noted that such a pattern provides some, but not much, hope for acceptance.

21. Throughout the hearing, witnesses for the Union testified that each summer they observed and compared the activities, level of work intensity, responsibility and authority of Seasonal Park Foreman with the Lifeguard Supervisor's qualifications, functions and responsibilities. The Union spokesmen bitterly complained of what they believe to be a substantial inequity, namely that their per them rates are lower than the rate of Seasonal Park Foreman, even though their qualifications, responsibilities and duties are of a higher order. The Panel Chairman noted the exasperation of Union Spokesmen over what they are convinced is a gross and continuing injustice, namely that Chiefs received \$7.00 per them less than Seasonal Park Foremen.

Because insufficient evidence was presented, my findings and recommendations were not influenced by the allegations enumerated, nor do I make a finding as to their validity or lack of validity. Yet the Panel Chairman believes he would be

derelict in his duty were he to fail to report this "continuing source of complaint," for whatever useful purpose it will serve.

The Panel Chairman is mindful of the vexing and complex problems the City faces in attempting to dovetail salaries, as among different classifications of employees so that compensation is roughly related to qualifications and responsibilities, while simultaneously engaging in collective bargaining.

Nonetheless there are, it seems solid grounds for drawing to the attention of the Park Department and the N.Y.C. Labor Relations Department this continuing source of rancor among a group of employees over what they believe is mistreatment. These feelings, the Panel Chairman is persuaded, in some measure contributed (and contribute) to tensions and difficulties in the collective bargaining between the parties, and between the employees and the Department.

Prudence suggests, and it is recommended to the City, that a careful study and analysis of this allegation of inequity be undertaken. If substantive grounds for these charges do emerge as a result of careful study, then remedial action can be instituted; if no grounds for these allegations are found then there will have been provided the basis for answering and hopefully eliminating these charges. Irrespective of the outcome, such study can diminish and possibly eliminate what is obviously an irritant in the labor-management relationship, and what perhaps may have been a significant factor in twice requiring for consummation of agreements between the parties the use of impartial assistance.

JESSE SIMONS
Sept. 22, 1970