

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
CN 429
TRENTON, NJ 08625-0429

Docket No. IA-96-118

In the Matter of Arbitration Between

TOWNSHIP OF LAKEWOOD

-Employer-

and

P.B.A. LOCAL 71

-Union-

OPINION

AND

AWARD

ARBITRATOR:

Robert E. Light, mutually chosen by the parties pursuant to the rules and regulations of the New Jersey State Public Employment Relations Commission.

MEETINGS:

September 3, 1996, January 13, 1997, March 18 and 19, 1997

FORMAL HEARING:

October 6, 1997; both counsel thereafter filed post-hearing briefs.

APPEARANCES:

For the Township

James W. Holzapfel, Esq., CITTA, HOLZAPFEL, et al
Gregory Fehrenbach, Administrator

For the Union

Fred M. Klatsky, Esq., KLATSKY & KLATSKY
Michael A. Bukosky, Esq., KLATSKY & KLATSKY
Robert Koovits, President
Glenn Monteiro, Vice President
Joseph A. Delgado Jr., Negotiations Committee Member
John Latyshev, Police Officer, State Delegate

PROCEDURAL BACKGROUND

Pursuant to Chapter 85, Public Law of 1977, the act providing for compulsory interest arbitration of labor disputes in police and fire departments and, in accordance with NJAC 19:16-5.6 (b), the undersigned was duly chosen as Interest Arbitrator in the above matter. This designation was communicated to the parties and the Interest Arbitrator by letter dated May 15, 1996 from Timothy Hundley, Director of Arbitration, New Jersey Public Employment Relations Commission.

Mediation sessions were held on September 3, 1996, January 13, 1997, March 18 and March 19, 1997, with a formal interest arbitration hearing on October 6, 1997. By virtue of the statutory revision to NJSA 34:13(a)1, et seq., by the passage of the Police and Fire Interest Arbitration Reform Act (A-3296, C. 425 L1995) as well as by agreement of the parties themselves, conventional authority is vested in the Arbitrator to decide the issues in dispute.

The revised statute cited above imposes upon the Interest Arbitrator the following:

"The arbitrator or panel of arbitrators shall decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor:

1. The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976 c.68 (C.40A:4-45.1 et seq.).
2. Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
 - a. In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - b. In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - c. In public employment in the same or similar comparable jurisdictions, as determined in accordance with Section 5 of P.L. , c. (C.)(now pending before the Legislature as this bill); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

[(b) in comparable private employment.

(c) in public and private employment in general.]

3. The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
4. Stipulations of the parties.
5. The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c.68 (C.40A:4-45.1 et seq.).
6. The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services; (b) expand existing local programs and services for which public monies have been designated by the governing body in a proposed local budget, or (c) initiate any

new programs and services for which public monies have been designated by the governing body in a proposed local budget.

7. The cost of living.
8. The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.”

FINAL OFFERS OF THE PARTIES

Township of Lakewood

The Township proposes that salaries for the PBA be increased over the term of the contract as follows: 1996 - 4.0%; 1997 - 4%; 1998- 4.0%. The Township also proposes that the Senior Officer Differential be eliminated effective January 1, 1996. As to the actual issuance of paychecks to the PBA members, the Township proposes that the paychecks should be issued on the last day of the work week, namely, Friday.

Additionally, the Township proposes that the Hospital, Medical and Dental Benefits section of the contract (Article XIV) be modified so that medical/hospitalization coverage shall be subject to utilization management incorporating various techniques which effectively

manage cost and determine the best means of health care delivery for the Township employees. Also, it is proposed that major medical deductibles will be \$150.00 for single coverage and \$300.00 for family coverage with co-insurance of 80%/20% of the next \$3,000.00, and 100% coverage thereafter. Regarding prescription coverage, a pharmacy co-pay of 5% of the cost of prescription is proposed. Lastly, regarding health insurance at retirement, the Township proposes that only eligible employees will be covered, not family members. Also, eligible employees will only be covered if the employee satisfies the provisions of **N.J.S.A. 40A:10-23**, as will be implemented by the governing body via ordinance setting minimum years of service with the Township at twenty-two (22) years.

Next, the Township proposes a modification of the Workers' Compensation section so that when an employee is injured in the line of duty, said employee shall receive those benefits provided in the statutes, **N.J.S.A. 34:15-12**.

Lastly, the Township proposes that, for new hires, at the time of retirement, the employees shall be entitled to pay on the basis of one-half day per full day of verifiable sick leave accumulated and not previously used which amount shall not exceed the State limit of \$15,000.

Lakewood PBA

1. Salary

6% per year across the board for 1996, 1997 and 1998.

2. Medical Insurance After Retirement Based on Disability

Article XIV, Section: The PBA is simply requesting the same medical insurance coverage for a disabled officer as the SOA now has in the SOA contract (Article XIV, Section III, (B) and (C)). Section 3 of the PBA contract should now include sections (a), (b) and (c) as set forth below:

(a) Upon retirement, the employee shall continue to be carried on and covered under the employer's hospital, medical and dental plans now in full force and effect for as long as the employee shall live, which insurance coverage shall at least be equal to or better than the present coverage enjoyed by the employees of the Lakewood Police Department. It shall be a requirement of the employer that any hospital, medical and dental plan that the employer shall provide must have this provision, of providing coverage to an employee upon his retirement or disability. (See subsection (b) below for disability.) The employer shall pay for the said hospital, medical and dental plan coverage at the employer's sole cost and expense with no contribution required by the employee for employee coverage. To be eligible for this continued hospital, medical and dental coverage, the individual employee must satisfy the required standards set forth in N.J.S. 40A:10-23, which only requires 25 years or more service credit in a state or locally administered retirement system, but does *not* require 25 years or more service with Lakewood Police Department.

(b) Disability. In the event an employee qualifies either by election, voluntarily or involuntarily to come under the category of disabled and as such retires, then the employee shall receive the paid hospital, medical and dental coverage as set forth in (a) above, as if he had retired.

(c) Once an employee qualified under either subparagraphs (a) and (b) above, and, therefore, shall be under the category of retired or disabled, the employee shall have the option to request from the Township that either the employee's spouse and/or children shall be placed under the Township hospital, medical and dental plans provided the employee reimburses the Township for the cost providing said hospital, medical and dental coverage.

3. Article XIV, Section 3 - Medical Insurance After Retirement - Page 24

Currently only the employee is covered for medical insurance after retirement. The PBA is proposing to include spouse and family.

4. Article XV - Clothing Allowance - Page 26

Increase the \$900 per year to \$1,100 per year in 1996; \$1,250 in 1997; and \$1,400 in 1998 as required by need shown. This payment is to be made on or before January 30 of each year.

5. Article XIII - Holidays - Page 22

At the current time, any officer who works Easter is paid time and one half. The PBA is proposing that any officer **working any holiday** shall be paid at the rate of time and one half.

6. Add Section 10 to Article VII - Page 15

At retirement or termination for any reason, the Employer shall pay to the employee 50% of all earned and accumulated sick days; plus 100% of all accumulated vacation days and holidays (not to exceed two years accumulation of vacation days and holidays.) An employee may use the above earned and accumulated sick days vacation days and holidays immediately preceding retirement or termination for any reason, but during this time of running out these earned and unused days, an employee shall not accrue or accumulate additional sick days, vacation days and/or holidays.

(This clause merely memorializes the existing Township policy.)

7. Article V, Section 3 - Page 8

Please change from one (1) officer per platoon to two (2) officers per platoon and change three (3) representatives of each party to five (5) representatives. Therefore, the last two sentences should read as follows:

No more than two (2) officers per platoon shall be designated to participate in collective bargaining at any one time. Therefore, not more than five (5) representatives of each party shall participate in collective bargaining meetings, excluding negotiators and attorneys.

8. Employee Protection

The PBA is proposing to include an indemnity clause for the protection of the employees. Add:

(A) The Township shall completely protect all employees covered by this agreement from any and all suits, claims, and/or prosecution for false arrest and the Township shall pay, on behalf of the employees, all attorneys fees, damages, interest, penalties and awards.

(B) The employer agrees to be bound by the provisions of N.J.S.A. 40A:14-155. In all criminal matters including municipal court, arising out of his duties as a police officer in which an employee has been named a defendant, the employee may retain an attorney of his or her choice, which attorney shall be paid pursuant to N.J.S.A. 40A:14-155 at the same hourly rate as the Township attorney, but not less than \$125 per hour. In municipal court cases in which more than two officers are charged as a defendant, the involved officers and the Township shall mutually consult as to engaging attorneys. Civil Actions involving alleged negligent acts in the course of an officers duties shall be defended and totally indemnified for all damages, attorneys fees, interest and cost by the Township. In other civil matters in which an employee is involved, involving possible personal liability not indemnified by the Township, the Township reserves the right to authorize the engagement of appropriate counsel on a case by case basis, after consultation with the involved officers and the PBA, if appropriate.

9. Add Section 2 to Article VII - Page 16, Injury Leave

Pursuant to N.J.S.A. 40A:14-137, the employer shall pay to any employee who shall be injured, ill or disabled from any cause, the employee's full salary up to one year, 365 days. If the employee receives worker's compensation benefits, then the employee will give the worker's compensation weekly temporary payment to the Township for up to one year while on injury leave..

(This clause merely memorializes the existing Township policy.)

10. All other contract items remain the same.

POSITION OF THE TOWNSHIP

Counsel advances the following arguments under the appropriate statutory criteria to convince the undersigned to award its final offer or a variation thereof as being the most reasonable:

Comparability

Lakewood relies heavily on a comparison of its final offer with the present compensation package paid to police officers in the geographically nearby towns of Brick, Jackson, Howell, Dover and Manchester since they also cover great expanses of territory with comparably large departments. Beyond any reliance it might make to these towns on the issue of comparability, the PBA's list of allegedly comparable departments are in fact not comparable in any sense of the term. Counsel postulates that the compensation paid to Lakewood's officers is indeed comparable and the adoption of the Township's final offer will maintain that relationship. Conversely, the PBA offered no substantiation for the adoption of

a 6% per year wage increase, together with the retention of a 7.5% Senior Officer Differential ("SOD"). Consequently -- absent such proof -- the PBA offer must be rejected. Further support for the Township's offer arises from an internal comparison. Of 29 department heads and supervisors employed by Lakewood, the average patrolman earns more than 15 of them and if the SOD is factored in, four more are surpassed. Keeping the SOD and awarding 6% increases as the PBA seeks would clearly be excessive.

Counsel briefly notes that the average private sector salary in Ocean County is \$23,832, far below the statewide average of \$35,351. In any event, the average Lakewood patrolman's salary compares extremely favorably when contrasted with the private sector in the county.

In conclusion, counsel argues that a true comparison of the respective offers each side has made when compared to police salaries in comparable departments, within Lakewood itself and with the private sector, mandates the selection of the Town's final offer.

Financial Impact

The mere fact that the PBA produced a witness to offer an opinion that Lakewood has the ability to pay the substantial proposed increase does not mean that the sought-after 6% pay increase should be awarded. Moreover, Mr. Doody's testimony was faulty since it was solely based on budget documents without reference to the underlying facts which relate to the Town's actual economic condition. It also must be borne in mind that Doody was never

qualified as an expert witness, thus further diminishing the weight, if any, to be afforded to his testimony.

Counsel then recites the litany of indicia he argues substantiates the fragility of Lakewood's economy: 60% of Ocean County's public assistance recipients reside in Lakewood; 90% of the County's Section 8 and public housing units are found in Lakewood; unemployment is 25% higher than the County average; the tax rate is high when compared to neighboring communities; and from 1993 through 1996 the local purpose tax increased 7.287% annually. Turning to the Town's budget, counsel calls attention to the fact that the police budget has increased percentage-wise from 41.3% in 1995 to 45.4 in 1997. Acceptance of the PBA's final offer would only serve to worsen the already negative impact.

Counsel argues its final offer clearly is the more reasonable since it represents a 17.77% increase over the three-year contract period in discussion. Were the PBA's offer to be adopted, raising taxes is the only viable alternative since the surplus the PBA alludes to is preserved for unforeseen exigencies.

In respect to one of the key elements in its final offer (elimination of the Senior Officer Differential), counsel points out that the Local Government Budget Review strongly recommended that elimination. The SOD constitutes an 8% windfall for those employees enjoying that benefit. On top of this 108% of actual salary, any annual increase is then superimposed on that figure. In 1995 the cost of this provision alone amounted to at least \$72,000. Counsel recites a history wherein the former Administrator claims that Lakewood

accepted the SOD and settled under intimidation it experienced in the prior interest arbitration.

Cost of Living

With a Consumer Price Index of 2.9% for 1996, counsel argues that it cannot be gainsaid that its offer is by far the more reasonable than the Association's demanded 6% and retention of the SOD.

Continuity and Stability of Employment

If anything, counsel warns, the awarding of the PBA offer would impose unanticipated additional expenses which in turn could force a reduction in personnel and would hamper Lakewood's ability to maintain the continuity and stability of employment. Counsel notes that the Township has already left positions vacant, utilized temporary and part-time workers and attempted to lay off six employees in the Department of Inspections. Against this background and the earlier referenced financial condition, the Town's offer better protects the continuity and stability of employment against the unexpected and unwarranted costs of the PBA's offer to the Township which would jeopardize such continuity and stability.

Remaining Factors

As to the **interest and welfare of the public**, counsel notes that a strong lobby has developed in the community in response to the extremely high tax rate. In response to these interests, the Township has undertaken to reduce the tax rate which it argues its final offer supports while still providing the PBA with generous salary increases. Accordingly, Lakewood's final offer is the more reasonable of the two offers when measured against this criteria, and therefore it should be awarded.

Moving to the **overall compensation** the Association's members receive, counsel suggests the wages, longevity, vacations, holidays, insurance, medical plans and pensions they receive are extensive, at maximum levels and extremely costly to the Township. The continuation of the SOD program is completely unwarranted and represents a "windfall" paid in addition to longevity. Nothing recommends its retention.

Non-Economic Issues

The PBA, counsel argues, failed to present any evidence in support of its non-economic demands relating to health insurance, clothing allowance, holiday pay, terminal and bereavement leave, indemnification and attendance at funerals. Absent support by credible evidence, these should be disregarded since our Supreme Court has held that they must be supported by competent evidence. Moreover, the Association's proposals are singly an unsubstantiated attempt to receive more benefits over and above the more than adequate

compensation they presently receive. Any assertion PBA counsel made that the proposals merely memorialize existing practice was proven to be without merit in the hearing.

Counsel recounts the controversy and the litigation history over the Town's prior awarding of health benefits to employees with twenty-five years of service. Counsel argues that the Appellate Division decision preserved the prior payments only until a new agreement took effect. With that guidance, Lakewood is proposing to provide coverage for retirees with twenty-two years of service to the Township. Counsel rejects the claim by the PBA that such coverage was provided for disabled employees with less than twenty-five years of service or to employees who had fifteen years and reached the age of 62.

As to terminal leave, counsel argues that the PBA proposal does not memorialize the current practice and should be rejected.

Counsel acknowledges that the members of the Police Department had been given their paychecks on Thursday in the past without anyone's consent or authorization. However, now that a payroll service is doing the payroll and the workweek does not end until Friday, it would be inappropriate to continue to pay the Police Department out of all the Town's employees one day early. Counsel cites statutory law which he argues would also expose the Township or its officials to criminal charges for knowingly paying funds in advance of receipt of services rendered. In conclusion, counsel argues that the Town's proposal should be incorporated into the Award.

In conclusion, counsel argues that the proofs have established that the Town's final offer is the more reasonable and should be awarded.

POSITION OF THE PBA

In an extensive brief, counsel for the PBA advanced the following analysis of the record in support of his request that the PBA's final offer be awarded:

1. By way of background, counsel discusses the recent amendments to the Act (NJSA 34:13A-16g) and argues that they little change the original statute except for the fact that the law now rests in the Arbitrator the responsibility of drafting the employment contract under the conventional authority it now grants him.

2. The first statutory criteria dealt with is that of the **lawful authority** of the Township of Lakewood. Counsel reviews the financial documents of the prior three years and emphasizes that Lakewood not only chose a 2.5% CAP (when it could have chosen 5%), but also managed its fiscal affairs so that it under utilized even the money available to it under the 2.5% cap figure it chose to use. Counsel runs the numbers and asserts that the cost of the PBA's proposals fall well short of the 1998 CAP allowances, and Lakewood cannot assert that the awarding of the PBA offer would breach its lawful authority.

3. In the next section of his brief, counsel, for the duration of 13 pages, discusses at length positive economic indicators encompassing governmental entities from Lakewood to

the country as a whole. This discussion can be viewed as counsel's setting the stage to later argue the statutory points of financial impact on the Township, its citizens and taxpayers and remaining criteria which are impacted by financial concerns.

Initially, while acknowledging Lakewood's less than desirous economic history, counsel goes on to cite the following positive factors: fantastic economic growth both in Lakewood and Ocean County over the recent past; Lakewood's intent to build a minor league baseball stadium; its status as a potential foreign trade zone; the development of an airport and the hundreds of thousands of dollars Lakewood has obtained in various grants.

Of relevance to our concerns, counsel cites the following specific facts about Lakewood: third lowest unemployment in Ocean County (PBA - D10); median value of housing units is \$210,500 - 40% above the County average (PBA - C13); average tax bill has declined over the past two years; total revenues have increased \$11,134,312 from 1994 to 1996; budget surplus has increased \$3,614,411 over the comparable period. In summary, counsel notes that the tax rate has declined in the last three years; the homeowner's tax bill has decreased over the last six years; expenditures have risen negligibly, revenues substantially.

Turning to the country and Ocean County, counsel points to the well above average of Ocean County tripling its growth versus that of the national average over the past 24 years. Note is made that legislation recently passed allows local governments to auction their tax

levy, thus eliminating the need to budget a reserve for uncollected taxes which, for Lakewood, would represent a \$3.4 million addition to the 1998 budget.

Reviewing the Town's 1997 budget shows that it has already allowed for a 16.5% increase in salary and wages. A review of the 1994 through 1997 budgets shows Lakewood consistently allowed for increases even though none were paid. Moreover, since it continued to pay longevity and step movements, the Townships "out-of-pocket" expenses for 1997 would only be \$471,769 if its 4% proposal were implemented. Were the County average increases of 5.42% (1996); 4.75% (1997); and 4.35% (1988) awarded by the Arbitrator, the difference would only be \$50,360. Also, were that average to difference in overall costs be awarded, the percentage difference is only 0.07 which would translate to a mere 1.2%.

In conclusion, the Association urges that since Lakewood has raised no defense based on ability to pay and the record demonstrates that the Township has substantial economic assets to implement the requested salary program, no obstacle stands in the way of awarding the PBA offer.

Comparability

Counsel cites seventeen Ocean County municipalities along with their negotiated or awarded 1996 wage increases which range from 3.75% to 14.33%, averaging 5.42%. Accordingly, it is argued that Lakewood's offer lags behind the county average and is near the very bottom of those towns. Counsel also charts them by actual dollar increases to

similarly show the relatively low dollar increase Lakewood's 4% would yield which in actual dollar amounts would be \$406 per year below the average increase of these eighteen towns. Moving to 1997, it is argued that the average wage percentage increase of ten towns cited is 4.73%, again nearly three quarters of a point above the Lakewood offer. Finally, only three towns are cited for 1998 with a average increase of 4.35%. Beyond the mere recitation of these statistics which the Association asserts come from "adjacent communities as well as other communities within Ocean County", counsel makes no further comparability arguments with other departments or as to any criteria beyond wage increases. He limits his further comparability arguments to Lakewood's teachers which is discussed below.

Financial Impact

Counsel asserts that the testimony of its accountant as well as its cross-examination of former Township Administrator Fehrenbach and the exhibits it introduced establish that Lakewood can well afford the cost of the PBA offer without causing any adverse financial impact on the residents, taxpayers or the Township of Lakewood itself. Counsel argues that the difference between the Township offer and an award of the County average increase (cited above) amounts to \$244,313 cumulatively over three years. The difference between these offers represents less than a 1% change in the budget.

Further Comparability Arguments

Counsel proceeds through a lengthy analysis of the difference between Lakewood's teachers and patrolmen under NJSA 34:13A-16g(2)(a) which requires consideration of wages, salaries, hours and conditions of employment "In public employment in the same or similar comparable jurisdictions." Essentially, it is argued that its teachers work fewer days and hours per day and receive better benefits and earn more money per day. A teacher at maximum earns \$10,213 more than a Lakewood patrolman at maximum. This is based on the top patrolman increase under the PBA proposal. Were the Township to prevail, the gap would even be larger.

Cost of Living

Counsel spends but a paragraph discussing the cost of living noting that from June 1996 through June 1997, a 2.9% increase occurred in the New York-Northeastern New Jersey urban regions which is reported at 2.3% for the comparable time period for the entire country.

Continuity and Stability of Employment

Under this statutory criteria that is required to be considered, counsel argues that it is "obvious" that junior officers will transfer to other municipalities for better salaries and benefits if Lakewood's compensation package is allowed "to decline." It is argued that this criteria is

interrelated with the "interest and welfare of the public" criteria since senior officers are a valuable asset which impacts favorably on the public's interest and welfare. Counsel argues that an award of the PBA offer will advance the continuity and stability of employment

Countywide Comparability Revisited

Counsel once again returns to comparisons between the Lakewood officer with other Ocean County patrolmen. Dealing with actual salary figures and limiting his comparison to three or four other municipalities depending on the year being considered, counsel asserts that Lakewood "ranks low compared to the municipalities located in propinquity to Lakewood." The Association argues that, even were its offer to be adopted, it would still range behind most of the other comparable towns cited.

Senior Differential Status

The Chronicle of the Senior Officer Differential (SOD) as related by the PBA starts in informal talks the PBA had with council members in the prior negotiations. Here counsel lists the reasons the SOD agreement, negotiated and agreed to by the parties, benefits the Township by rewarding those officers with over 22 years of service. In brief, it is argued that it compensates those officers pre-retirement; it compensates them for their role as mentors providing guidance to rookie officers in the absence of supervisors; it compensated them when it was initially agreed to for the lower pay Lakewood officers were receiving, and it

induced the balance of the rank and file to accept lower overall settlement of 4.5% annual increases. The cost is only \$72,000 a year which represents only 1.06% of the entire police budget. Moreover, since those receiving the SOD are near retirement and the majority of the force has less than twelve years, the \$72,000 cost will probably decline over the near future.

No reason other than monetary has been offered by the Township to justify taking the SOD away. This is contrasted with the numerous reasons the PBA has offered to retain the benefit, and the Arbitrator should so hold.

Disability Benefits

The Township seeks to discontinue the payment of the difference between an injured worker's compensation entitlement and his normal salary, as is the present practice for up to one year when the injury is incurred in the line of duty. The rationale Lakewood offered is that the Joint Insurance Fund recommended it because his comp payments are allegedly not taxable. The Township offered no substantial proof of these allegations, and they cannot therefore be accepted. In support of retaining this benefit, counsel points to the testimony of its officers who explained their natural hesitation to involve themselves in an instance of breaking up a fight where the thought exists that if they are injured, they would have to subsist solely on compensation payments and incur a loss of income during their recovery. In conclusion, counsel asks that this benefit be retained.

Post-Retirement Medical Insurance Entitlement

Lakewood has proposed limiting coverage availability only to retirees who have 22 years of service to the Township. Counsel emphasizes that neither party seeks to eliminate retiree coverage. What is in dispute is the availability of coverage with payment by and for a retiree's spouse and the number of years of service to Lakewood that is required for entitlement. The PBA seeks the memorialization of the present practice of providing coverage to those with 25 years within the "pension system" and allowing a spouse to buy his or her own coverage through the Town's plan. PBA counsel points to Administrator Fehrenbach's admission on cross-examination that prior to Lakewood's attempt to establish a 22-year Lakewood service rule, there had been no limit on how long one had to work for the Township provided the 25 years of credit in the pension system was met. Similarly, Lakewood had offered coverage for spouses as long as the party paid for the coverage.

Counsel notes that Lakewood failed to offer any economic justification for its proposed elimination of the existing practices. Counsel asks that its proposal be incorporated into the Award for the reasons discussed above.

Memorialization of Existing Terminal Leave Policy

The PBA's proposal No. 6 merely memorializes existing Township policy as verified by Officer Brower and Officer Koovits. Lakewood submitted no evidence as to why its

proposed \$15,000 cap for new hires would be desirable, nor did it present evidence that any economic or administrative problem existed which would justify this proposal.

Similarly, counsel urges the rejection of Lakewood's proposal to change medical health insurance for full-time employees. Nothing but the brief testimony of former Administrator Fehrenbach concerning increased co-pays, deductibles and adoption of "Utilization Management" has been explained to either the PBA or the Arbitrator. His argument as to wanting uniformity among the bargaining units is defeated by the very fact that Lakewood failed to obtain this same provision in the Superior's contract in interest arbitration.

Since Lakewood failed to disclose the changes sought in the existing benefits contract, it failed to bear its burden of proving why this provision should be rejected.

Indemnity Clause

Again, counsel argues that this proposal merely memorializes in the contract protection provided in NJSA 40A:14-155 which he admits Lakewood must abide by "regardless of what is in the contract."

Interest and Welfare of the Public

Counsel argues that there is no CAP consideration in this interest arbitration and the interest and welfare criteria must then be interpreted to represent a totality of the remaining

seven criteria and be viewed as a measure of whether employees are treated fairly while services are maintained for the Town's residents. Viewing this criteria in this light, counsel argues requires the conclusion that its offer must be deemed the more reasonable. It modestly increases wages, allows Lakewood to attract and retain qualified officers. Counsel asserts that Lakewood's patrolmen now exist low on a scale of comparison with other Ocean County departments, while the Township seeks year-by-year to chip away at benefits which further widens the level of compensation between Lakewood patrolmen and their peers in the County. Accordingly, the PBA proposals should be granted in their entirety.

DISCUSSION

The Arbitrator has carefully weighed all of the evidence in the case including the testimony of the witnesses at the hearings, the arguments of respective counsel as set forth both at the hearings and in their briefs, the contract and the exhibits prior to reaching his decision. This Arbitrator served in the interest arbitration involving Lakewood and its superior officers. Reference is made to my service in that matter and my final Award to convey my familiarity with much of the factual and economic background involved in this case although, admittedly, it should be noted that the two units, that is, rank and file and superiors are distinct (e.g. rank and file enjoying the SOD provision versus the superiors who do not). It is

appropriate to note that neither counsel argued pattern per se and the survey provided of the various bargaining units confirms that different units share different benefits.

Turning next to the various criteria, the following assessments were made by the undersigned.

Legal Authority of the Employer

Lakewood has the legal authority to pay the entire PBA final offer if ordered to do so. The Township did not contest this issue. It presented no financial expert to testify. PBA counsel, through the numbers as verified by his witness, proved there were ample funds available and the CAP limit could not be breached. PBA counsel's arguments about the fact that the Township did not utilize the 5% cap it could have falls on deaf ears. That is a fiscal and political consideration. It has been a rare occasion indeed, if ever, when this Arbitrator viewed a municipality that ever proceeded through the political process to proceed to the maximum allowable cap.

The evaluation reached under this statutory criteria is akin to a gatekeeper and nothing more. If the PBA's request can be funded within the CAP, further consideration of its proposals on the merits is allowed. This finding, although essential, cannot be said to favor either final offer.

Cost of Living

An evaluation of this criteria clearly favors the Township's final offer. The CPI of 2.9%, for the pertinent time involved here, was precisely for a one-year period (June 1995 to June 1996). If anything, the CPI is an inflated number and the true cost of living is slightly lower. The balance of the time period we are concerned with is as low or, where not complete, harbors no indication that it can ever far exceed 3%. The Township's offer of 4% increase is indeed more reasonable than the PBA's demand of straight 6% increases. In conclusion, the Township prevails under this criteria which this Arbitrator concludes is very significant in reaching the percentage increases set forth in his final conventional Award.

Stability and Continuity of Employment

In most interest arbitrations, this criteria has little significance. It should be kept in mind, however, that the undersigned has seen a unit with a thirty percent annual turnover which in such a case was of great significance under this criteria. Here the criteria serves as an opportunity for the Association to make such arguments if any exist. Apparently they do not. From the record it appears that all attrition resulted from retirement, and no testimony was offered alleging that recruitment is difficult. In brief, the facts did not exist for the PBA to argue that its final offer is favored by this criteria.

Conversely, the Township, although raising the spectre of reducing manpower and/or cutting services in the event the PBA offer was awarded, failed to put meat on the bare

utterance of that claim. Although , for the record, it should be noted that Lakewood has laid off Township employees in the relatively recent past for financial reasons.

In conclusion, I note that this criteria was of little significance in reaching the ultimate Award issued herein, and it is fair to conclude the results of the evaluation favored neither last offer.

Stipulation of the Parties

Apparently beyond the parties' agreements that each is seeking a three-year contract, no significant or meaningful stipulations exist. Consequently, this criteria is of no significance and neither side is favored by the conclusions reached under this criteria.

Financial Impact

Although PBA counsel presented isolated statistics which would at least appear to put the "blush on the rose" of his contention that the Township "enjoys an extremely stable and healthy economic outlook", on balance the claim is not borne out. To begin with, counsel spends an inordinate amount of time discussing Ocean County's growth and economic prospects. Lakewood is not Ocean County -- it is merely one of numerous municipalities within that county. While counsel expectedly wishes to share the best pictures of recent developments concerning budget surpluses and tax rates, they are but a snap shot of a single year or two. The Township repeated in this arbitration facts it cited in the superiors'

arbitration such as the statistics on AFDC to the percentage of Section 8 housing, from the designation as an Urban Enterprise Zone to the double digit local purpose tax increases in 1993 and 1994 that led to the inescapable conclusion that this is not a wealthy suburban township that can afford to pay its public servants at exceptionally high levels of compensation. The history presented through former Administrator Fehrenbach and the documentary evidence reveal that Lakewood has reached a more stable economic condition this year because of the belt tightening and spending analysis it accomplished since 1995.

While PBA counsel has pointed out that there is money to fund its entire offer, this is another argument which, without more, falls on deaf ears. The fact that the Township could afford it does not mean it should or must afford it. Given the economic condition a Township like Lakewood finds itself in, the less spent is the more reasonable path to be taken between the two offers as presented. It should be borne in mind, however, as will be discussed on an item-by-item basis, the relief the Township seeks or benefits may more often than not be a less reasonable and equitable resolution.

This is one of the three criteria that commands the deepest consideration and bears the most weight in the evaluation of the two final offers in this arbitration.

Comparability

The Township advanced limited arguments on the issue of comparability preferring to concentrate on the five neighboring communities of Jackson, Brick, Howell, Dover and

Manchester. The PBA starts with a comparison for 1996 of 17 Ocean County towns as to percentage increases (18 for 1996 as to dollar value increases); 10 towns for 1997 percentage increases (7 for 1997 dollar value increases) and three for 1998 percentage and dollar value increases.

This Arbitrator has poured over the comparisons offered by both sides. As is more often than not the case, different towns have different emphasis on where money is placed. Some do it in salary, others in longevity, clothing allowance, folding in of holiday pay, or what have you. After reviewing these comparables offered, it is clear that the Township's offer, and a modification thereof, is the more reasonable. PBA counsel seems to agree and retreats into discussing the awarding of the percentage average of the Ocean County towns he cites for the years in question. There is a certain reasonableness to this approach in light of the fact that the Township's proposal to discontinue the SOD will be granted. In the concluding part of the Opinion section, further discussion will be had as to how the final awarded increases were arrived at.

The Township cites other figures relating to Township employees and average salaries in Ocean County. Suffice it to say that they all support the reasonableness of the Township's final wage offer over that of the PBA. The PBA makes a lengthy comparison with the teachers who work in Lakewood. This comparison is based purely dollar-for-dollar, and it fails to mention that teachers have twice the number of steps to reach maximum that a Lakewood patrolman does. Even beyond that point and the failure to discuss the recent

percentage increases negotiated with the teachers, one must recognize that an argument on the subject of comparability between these two positions could fruitlessly go on forever.

Overall Compensation

Normally this is a criterion requiring very little analysis because most departments receive roughly the same gamut of benefits in one proportion or another which are more or less stable. Here, however, the Township seeks to revoke or revise many benefits, some of which admittedly exist only by virtue of its own prior policy. As will be seen from the item-by-item discussion detailed below, the PBA's final offer can be said to prevail in the Arbitrator's evaluation of this criteria.

Interests and Welfare of the Public

This criteria is rather amorphous, and its application to any evaluative process proves problematic. PBA counsel's assessment is accurate to a degree when he mentions that this criterion serves as a weighing or an evaluation of the remaining criteria. While certainly economic impact must be considered, so too must the delivery of police services on a professional level by satisfied public employees. Because of the unique split reached in this conventional Award, it is appropriate to conclude that neither parties' proofs prevailed in an evaluation of this criteria. However, as will be noted below, one of the factors which led to the split decision, if you will, between the parties' final offers was the obligation the Arbitrator

felt in striving to craft the most reasonable settlement consistent with a concern for the economic impact on the relevant parties and for a just resolution for the police officers delivering these services.

Economic Items

Wages

The PBA argues that the average wage increases for the Ocean County Departments it cited (see above) were 5.42% for 1996; 4.74% for 1997 and 4.35% for 1998. The 1996 figures contained an unexplained 14.33% increase in Seaside Park. This percentage (fully 7.61% above the next highest town) skews this average. If this figure and the lowest (3.75% Point Pleasant Beach) are discarded, it produces a 4.93% average raise for the remaining towns for 1996. In light of all factors including the 4.5% percentage increase awarded to the sergeants and lieutenants each year from 1995 through 1997, along with the loss of the SOD, I award the Union a 5% increase for 1996. The PBA comparable average wage increases for 1997 includes only ten towns producing a 4.74% average increase. Considering these increases together with the salaries and increases from Jackson, Brick, Howell, Dover and Manchester Township that Lakewood argues be considered, along with the Lakewood teachers, private sector increases, the CPI, and the remaining relevant

statutory criteria, leads to the conclusion that an award of 4.75% for 1997 would be most reasonable.

Very few comparables exist for 1998. The PBA offers but three Ocean County departments averaging a 4.35% increase as comparables. Of the five towns Lakewood urges as a basis of comparison, only Jackson has a contract covering 1998 and that reflects a 5.3% increase (see T-15). Given this average, albeit narrowly based, all of the factors cited in the discussion for the 1997 increase found above and with particular recognition that the SOD will be eliminated prospectively, an increase of 4.00% is deemed most reasonable.

In the cost schedules PBA counsel projected based on the Township's 12% total 3-year increase and its own 14.51% total 3-year increase, the total 3-year cost difference (that is, costs not yet expended) between packages was approximately \$244,000. The percentage increases awarded herein would increase the Township's liability approximately \$56,000, thus placing the cost of the package awarded at \$188,313 less than the PBA offer. It is concluded that this is the most reasonable salary increase award under the factors here present. While Lakewood will not receive the benefit of the removal of the SOD until the second half of the year, it will nevertheless balance to a certain degree its additional salary costs.

Senior Officer Differential

There was ample but conflicting testimony as to how this provision was agreed to by the parties in the prior contract. The testimony does not so much involve questions of credibility but, rather, different perspectives held by both parties. While the Association argues that the intention of the provision was to reward long-term patrolmen who had never been promoted for their mentoring role and to compensate them for the below average salaries they were being paid, further testimony discloses that they received a 4.5% increase, 8% longevity and then 7.5% for the SOD for those contract years. There is but one other township in South Jersey which provides such a benefit. The payment of the SOD does not appear to have induced a significantly higher than normal number of patrolmen to retire. To project that it would more likely accomplish this if it were continued is pure speculation. While PBA counsel claims the cost is only \$72,000, that figure is nevertheless significant. In reality, the cost is higher according to former Administrator Fehrenbach because of the way the parties calculated the entitlement. In conclusion, the most reasonable result is to remove the SOD as of June 30, 1998.

Sick Leave at Retirement

One of the recommendations of the study conducted by the Local Government Budget Review Board was that the maximum payments for accrued but unused sick leave be capped at the State's limit of \$15,000. The Township has proposed this for new hires. Testimony

from former Administrator Fehrenbach estimates the average payment has been close to \$60,000 during his tenure. It is unreasonable to burden a township with such liability far into the future. The Town's proposal is reasonable and shall be implemented for all new hires after June 30, 1998.

Issuance of Paychecks

This item is of minor note. The PBA argues that payment to the police on Thursday afternoon encouraged membership attendance at the PBA meetings held on Thursday afternoon because off duty patrolmen would come in to pick up their checks.

The Township alleged it possibly violated a State statute which precludes payment by a governmental entity before services are performed. This argument was totally unsubstantiated and, interestingly enough, is not even mentioned in the Local Government Budget Review study report which only recommends bi-weekly payments to free up time for the Finance Department. In summary, the Township has failed to substantiate any necessity to change the issuance of paycheck distribution from Thursday to Friday. This request is denied.

Medical - Health Insurance

The Township advanced this provision as part of its final offer. It seeks to modify the contract so as to subject claims to utilization management, to change the deductibles; and increasing pharmacy co-pay. Although the Township has succeeded in implementing these

changes in the contracts of some of its other bargaining units through voluntary agreement, it has not succeeded in doing so with the superiors or the firefighters. The Township has failed to present convincing testimony that this provision -- when based on a comparison of the limitation of benefits versus any cost savings -- is reasonable. Accordingly, it is denied.

Workers Compensation

This request made by Lakewood flows from the Budget Review Report which highlights both the Police Department and the Public Works Department as to "sick leave abuse" and are both highlighted in the discussion of Workers Compensation. Little thought seems to enter the author's minds as to the nature of the work these departments perform versus the library, clerical or other "white collar" departments. The bottom line is that in the report it claims that it cost the Township \$23,027.04 in 1993 in municipal payments to supplement workers compensation. (In effect, an employee is paid his full salary with his W/C benefits assigned over to Lakewood). The Township's proposal to limit payment to the statutory benefits alone based simply as it is on alleged abuse and the savings of \$23,000 is unreasonable. To the contrary, the PBA made a convincing argument as to the projected loss of pay's effect on an officer in the line of duty. Accordingly, the Town's request is denied.

Health Insurance at Retirement

This issue proved contentious, and it was litigated on the alleged illegality of the Township's prior practice which subsequent litigation rectified. The dispute is over the requirement that an employee have his years of service with Lakewood itself as opposed to merely "pensionable service." After reviewing both parties' argument, I conclude that the PBA's proposal should be adopted as modified to require 25 years of pensionable service - 19 of which must have been with the Township. Except as modified here, the PBA's proposal as to Health Insurance at Retirement is accepted. Finally, I award the PBA's proposal that once an employee retires, his/her spouse and children be eligible for coverage provided the retiree, his/her spouse and/or children pay the premiums.

Miscellaneous Items

I reject the PBA's request, both economic and non-economic, for the miscellaneous items -- clothing increase, death in family, employee indemnity and protection clause and holidays as being unnecessary or not reasonable and not sufficiently substantiated on the record. Basically the remaining economic items the PBA proposes seek additional compensation in one form or another, and it fails to justify them.

In capsule review of the parties' final offers and which items were awarded, awarded as modified, denied in part or in their entirety, they are repeated below and annotated to note the outcome of each request.

FINAL OFFERS OF THE PARTIES

Township of Lakewood

The Township proposes that salaries for the PBA be increased over the term of the contract as follows: 1996 - 4.0%; 1997 - 4%; 1998- 4.0%. The Township also proposes that the Senior Officer Differential be eliminated effective January 1, 1996. As to the actual issuance of paychecks to the PBA members, the Township proposes that the paychecks should be issued on the last day of the work week, namely, Friday.

Additionally, the Township proposes that the Hospital, Medical and Dental Benefits section of the contract (Article XIV) be modified so that medical/hospitalization coverage shall be subject to utilization management incorporating various techniques which effectively manage cost and determine the best means of health care delivery for the Township employees. Also, it is proposed that major medical deductibles will be \$150.00 for single coverage and \$300.00 for family coverage with co-insurance of 80%/20% of the next \$3,000.00, and 100% coverage thereafter. Regarding prescription coverage, a pharmacy co-pay of 5% of the cost of prescription is proposed. Lastly, regarding health insurance at retirement, the Township proposes that only eligible employees will be covered, not family members. Also, eligible employees will only be covered if the employee satisfies the provisions of **N.J.S.A. 40A:10-23**, as will be implemented by the governing body via ordinance setting minimum years of service with the Township at twenty-two (22) years.

Next, the Township proposes a modification of the Workers' Compensation section so that when an employee is injured in the line of duty, said employee shall receive those benefits provided in the statutes, **N.J.S.A. 34:15-12.**

Lastly, the Township proposes that, for new hires, at the time of retirement, the employees shall be entitled to pay on the basis of one-half day per full day of verifiable sick leave accumulated and not previously used which amount shall not exceed the State limit of \$15,000.

Lakewood PBA

1. **Salary**

6% per year across the board for 1996, 1997 and 1998. **(DENIED, AWARDED AS**

MODIFIED)

2. **Medical Insurance After Retirement Based on Disability**

Article XIV, Section: The PBA is simply requesting the same medical insurance coverage for a disabled officer as the SOA now has in the SOA contract (Article XIV, Section III, (B) and (C)). Section 3 of the PBA contract should now include sections (a), (b) and (c) as set forth below:

(a) Upon retirement, the employee shall continue to be carried on and covered under the employer's hospital, medical and dental plans now in full force and effect for as long as the employee shall live, which insurance coverage shall at least be equal to or better than the present coverage enjoyed by the employees of the Lakewood Police Department. It shall be a requirement of the employer that any hospital, medical and dental plan that the employer shall provide must have this provision, of providing coverage to an employee upon his retirement or disability. (See

subsection (b) below for disability.) The employer shall pay for the said hospital, medical and dental plan coverage at the employer's sole cost and expense with no contribution required by the employee for employee coverage. To be eligible for this continued hospital, medical and dental coverage, the individual employee must satisfy the required standards set forth in N.J.S. 40A:10-23, which only requires 25 years or more service credit in a state or locally administered retirement system, but does **not** require 25 years or more service with Lakewood Police Department.

(b) Disability. In the event an employee qualifies either by election, voluntarily or involuntarily to come under the category of disabled and as such retires, then the employee shall receive the paid hospital, medical and dental coverage as set forth in (a) above, as if he had retired.

(c) Once an employee qualified under either subparagraphs (a) and (b) above, and, therefore, shall be under the category of retired or disabled, the employee shall have the option to request from the Township that either the employee's spouse and/or children shall be placed under the Township hospital, medical and dental plans provided the employee reimburses the Township for the cost providing said hospital, medical and dental coverage.
(AWARDED AS MODIFIED)

3. Article XIV, Section 3 - Medical Insurance After Retirement - Page 24

Currently only the employee is covered for medical insurance after retirement. The PBA is proposing to include spouse and family. **(AWARDED AS MODIFIED)**

4. Article XV - Clothing Allowance - Page 26

Increase the \$900 per year to \$1,100 per year in 1996; \$1,250 in 1997; and \$1,400 in 1998 as required by need shown. This payment is to be made on or before January 30 of each year. **(DENIED)**

5. Article XIII - Holidays - Page 22

At the current time, any officer who works Easter is paid time and one half. The PBA is proposing that any officer working **any holiday** shall be paid at the rate of time and one half. **(DENIED)**

6. Add Section 10 to Article VII - Page 15

At retirement or termination for any reason, the Employer shall pay to the employee 50% of all earned and accumulated sick days; plus 100% of all accumulated vacation days and holidays (not to exceed two years accumulation of vacation days and holidays.) An employee may use the above earned and accumulated sick days vacation days and holidays immediately preceding retirement or termination for any reason, but during this time of running out these earned and unused days, an employee shall not accrue or accumulate additional sick days, vacation days and/or holidays.

(This clause merely memorializes the existing Township policy) **(AWARDED AS MODIFIED)**

7. Article V, Section 3 - Page 8

Please change from one (1) officer per platoon to two (2) officers per platoon and change three (3) representatives of each party to five (5) representatives. Therefore, the last two sentences should read as follows: **(DENIED)**

No more than two (2) officers per platoon shall be designated to participate in collective bargaining at any one time. Therefore, not more than five (5) representatives of each party shall participate in collective bargaining meetings, excluding negotiators and attorneys.

8. Employee Protection

The PBA is proposing to include an indemnity clause for the protection of the employees. Add:

(A) The Township shall completely protect all employees covered by this agreement from any and all suits, claims, and/or prosecution for false arrest and the Township shall pay, on behalf of the employees, all attorneys fees, damages, interest, penalties and awards.

(B) The employer agrees to be bound by the provisions of N.J.S.A. 40A:14-155. In all criminal matters including municipal court, arising out of his duties as a police officer in which an employee has been named a defendant, the employee may retain an attorney of his or her choice, which attorney shall be paid pursuant to N.J.S.A. 40A:14-155 at the same hourly rate as the Township attorney, but not less than \$125 per hour. In municipal court cases in which more than two officers are charged as a defendant, the involved officers and the Township shall mutually consult as to engaging attorneys. Civil Actions involving alleged negligent acts in the course of an officers duties shall be defended and totally indemnified for all damages, attorneys fees, interest and cost by the Township. In other civil matters in which an employee is involved, involving possible personal liability not indemnified by the Township, the Township reserves the right to authorize the engagement of appropriate counsel on a case by case basis, after consultation with the involved officers and the PBA, if appropriate. **(DENIED)**

9. Add Section 2 to Article VII - Page 16, Injury Leave

Pursuant to N.J.S.A. 40A:14-137, the employer shall pay to any employee who shall be injured, ill or disabled from any cause, the employee's full salary up to one year, 365 days. If the employee receives worker's compensation benefits, then the employee will give the worker's compensation weekly temporary payment to the Township for up to one year while on injury leave.. **(AWARDED)**

(This clause merely memorializes the existing Township policy.)

10. All other contract items remain the same.

After a careful review of the testimony, the evidence and the briefs each party submitted against the background of the statutory language, I issue the following:

AWARD

1. Wages. Salaries shall be increased across the board and shall be paid retroactively as of January 1 of each year as follows:

1996	5.00%
1997	4.75%
1998	4.00%

2. Senior Officer Differential shall be terminated effective July 1, 1998.
3. Accrued unused sick leave shall be capped at \$15,000 for all patrolmen hired after July 1, 1998.
4. Paychecks shall be distributed to the police on Thursday of each pay week.
5. Medical Insurance After Retirement is awarded as proposed by the PBA except that a provision shall be included requiring that nineteen of the years of service required shall be in the employ of the Township of Lakewood.
6. The spouse and children of a retiring officer shall be afforded the opportunity to purchase Medical Insurance After Retirement at his/her/their own cost.
7. The Township, pursuant to NJSA 40A:14-137 shall pay an employee's full salary to any employee injured, made ill or disabled by any cause up to one year or 365 days. The Township shall receive the temporary compensation payment as an offset from the employee for this same period of time.
8. Any officer in the employ of the Township, upon retirement or termination for any reason, shall be paid 50% of all earned and accumulated vacation days and holidays (not to exceed two years accumulation of vacation days and holidays). An employee may use the above earned and accumulated sick days, vacation days and holidays immediately preceding retirement or termination for any reason but during this time of running out these days an employee shall not accrue or accumulate additional sick, vacation days or holidays.

Robert E. Light

ROBERT E. LIGHT, Arbitrator

Dated: April 27, 1998

STATE OF NEW JERSEY:

:SS

COUNTY OF MIDDLESEX:

On this 27th day of April, 1998 before me personally came and appeared ROBERT E. LIGHT to be known to me to be the individual described here and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Ellen Orlandini

ELLEN ORLANDINI
Notary Public of NJ