

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration

-between-

BOROUGH OF FAR HILLS

-and-

FAR HILLS PBA LOCAL 139

DOCKET NO.
IA-96-30

OPINION
AND
AWARD

BEFORE: JACK D. TILLEM, Arbitrator

APPEARANCES: For the PBA:
LOCCKE & CORREIA, Attorneys
By: RICHARD D. LOCCKE, Of Counsel

For the Borough:
ROBERT K. HORNBY, Attorney

Upon the filing of a petition to initiate interest arbitration by PBA Local 139, the undersigned was designated to hear and determine the issues at impasse. A mediation session was held in Far Hills, New Jersey on June 11, 1996 and an arbitration hearing on October 17, 1996 at which the parties framed the issues, offered exhibits, argued their respective positions, and submitted their final proposals. Post hearing briefs were submitted.

THE PBA PROPOSALS

1. Term of Agreement

Three years January 1, 1996 to December 31, 1998.

2. Salaries

Six percent wage increase across the board in each of the three years.

THE BOROUGH'S PROPOSALS

1. Term of Agreement

Three years January 1, 1996 to December 31, 1998.

2. Wages

Effective January 1, 1996	3.0% increase
Effective January 1, 1997	3.0% increase
Effective January 1, 1998	3.0% increase

Six step salary guide as set forth in contract which expired in December, 1995 to be adjusted upward in conformity with 3.0% increase formula.

3. Sick Time

Presently unlimited, proposed to limit sick days to 5 days per year, non cumulative, subject to other contractual provisions pertaining to physician verification and prior notification as contained in expired contract.

4. Personal Days

Three per annum (non cumulative).

5. Holidays

Number of holidays to be reduced to 12 from 13 in expired contract, combining Washington and Lincoln Birthday into one holiday.

* * *

The Borough of Far Hills, encompassing 4.9 square miles with a population of eight hundred fifty, sits astride Route 287 in northeastern Somerset County. The borough has no schools, sending its students to an adjacent municipality. The commercial area is concentrated in the village and there is no industrial activity. With one bank, a church, a railroad station, and one townhouse development of 125 units the borough is primarily rural and semi-rural.

Far Hills has a four person police department consisting of the chief of police, one lieutenant, and the two police officers who comprise the bargaining unit making up PBA Local 139. One officer has been there since 1981 and the other since 1989. The practice over the years has been for the lieutenant to work under the same terms and conditions of employment which the two officers in the bargaining unit obtain. The police department has no other employees. The last collective bargaining agreement between the borough and the PBA expired December 31, 1995.

The police officers' top step or base salary of \$44,847 is reached in the sixth year of service. The following table compares the parties' base salary proposals for 1996, 1997 and 1998:

<u>1996</u>	<u>Salary</u>	<u>Dollar Rise</u>
PBA	\$47,538	\$2,691
Borough	46,192	1,345
<u>1997</u>		
PBA	50,390	2,852
Borough	47,578	1,386
<u>1998</u>		
PBA	53,413	3,023
Borough	49,005	1,427

As recently amended, N.J.S.A. 34:13A-16g

states the following:

g. 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 a 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... provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(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 (C40A: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 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 moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys 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 facts 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.

The amendment has not altered the application of the eight criteria, its thrust codifying appellate division and supreme court decisions concerning their consideration by the arbitrator. Indeed, the requirement that the arbitrator state which of the factors are deemed relevant, which are not and provide analysis of the relevant factors is taken directly from the Supreme Court's holding in Hillsdale PBA Local 207 v. Borough of Hillsdale, 137 NJ 71 (1994).

The most substantive change wrought by the recent legislation is the establishment of conventional arbitration as the terminal procedure to be utilized when the local governing body and the bargaining unit are at impasse and unable to reach a new collective bargaining agreement. Unlike the prior system in which the arbitrator was limited to a choice of either of the parties' total final offers in the economic realm and item by item in the non-economic realm, the arbitrator is now empowered to pick and choose proposals from either of the parties or to forge ground somewhere between them.

Interests and Welfare of the Public

The borough maintains that its offer comports with the public interest because it considers the well

being of the taxpayers while providing the police officers with a fair and reasonable wage increase, one which it has granted to all its other municipal employees. The offer of 9 percent over three years, the borough points out, actually compounds to 9.27 percent providing a base salary in 1998 of \$49,005.

The PBA, on the other hand, contends that the borough, one of the wealthiest communities in the state, can well afford the 6 percent per annum raise which it seeks and which will still leave the police officers bringing up the rear as the lowest paid police force in the county. Such a situation scarcely contributes to heightened morale, the PBA says, reasoning that a police force demoralized by its exiguous salaries is scarcely compatible with the interest and welfare of the public.

It is difficult to conclude with any reasonable degree of certainty which of the parties' proposals squares more closely with this statutory standard, the difference in budgetary impact between the two being so slight as to be almost imperceptible. The borough's 1996 budget shows total appropriations of \$1,642,398 in 1995. A one percent increase to a police officer is equal to \$448 (one percent of the base salary of \$44,847); for two officers, the point doubles to \$896, so the three percent spread between the parties' positions in the first year is equal to \$2,688. Assume a 30 percent fringe benefit cost the difference is less than \$3,500. Accumulating the compounding effect for the ensuing years, the difference in the third year is not more than \$4,000 - or around 1/4 of one percent of the borough's 1995 total

appropriation.

Comparisons

The following chart compares the police officers' compensation in Far Hills with other municipalities in Somerset County and central New Jersey:

	<u>1995 MAXIMUM PATROLMAN BASE WAGE</u>	<u>AVAILABLE LONGEVITY BENEFIT</u>	<u>TOTAL BASE & LONGEVITY</u>
Ewing	\$57,920	1,815	\$59,735
South Brunswick	51,193	3,000	54,193
Washington Twsp.	52,242	1,800	54,042
Lawrence Twsp.	56,314	5,200	61,514
Monroe	45,170	7%	48,332
Raritan	48,134	2,000	50,134
Hopewell	52,000	---	52,000
Watchung	48,491	10%	53,340
Peapack-Gladstone	47,853	1,800	49,653
Warren	48,676	10%	53,544
Somerville	50,942	---	50,942
North Plainfield	50,514	6%	53,545
Manville	52,190	1,275	53,465
Hillsboro	48,263	1,000	49,263
Franklin	47,730	8.5%	51,787
Bridgewater	49,617	1,500	51,117
Branchburg	50,032	10%	55,035
Bound Brook	50,699	3%	52,220
Princeton	56,573	1,650	58,223
Bernards Twsp.	51,974	2,650	54,624
Bernardsville	57,757	1,000	52,757
Averages	\$50,871		\$53,308
Far Hills PBA	\$44,847	None	\$44,847
Far Hills PBA Compensation Compared to Average	(\$6,024) (13.4%)		(\$8,461) (18.9%)

This chart shows that the Far Hills police officers are the lowest paid in the region. On the base wage alone

they receive \$6,024 or 13.4 percent less than average, a shortfall swelling to \$8,461 when longevity is taken into consideration, a benefit which they do not obtain at all.

Nor are the other towns standing still. A number of them have already settled, as the following chart reveals:

AVERAGE RATES OF POLICE OFFICERS
BASE WAGE INCREASE

	<u>1996</u>	<u>1997</u>	<u>1998</u>
South Brunswick	4%		
Washington Twp.	4%	4%	4%
Raritan	4%	4%	
Watchung	4.9%		
Peapack Gladstone	4.5%		
Warren	4.4%	4.25%	
Somerville	4.5%		
North Plainfield	5%		
Manville	4%	4%	4%
Branchburg	5%		
Bedminster	4.25%	4.25%	
Bernardsville	4.5%	4.5%	
Average	4.4208%	4.1666%	4%

Because these communities start with a higher base wage than Far Hills, their percentage increases generate greater amounts of money than if a like percentage were applied to the Far Hills base rate. If the average percentage increase for 1996 was 4.42 percent, in order to generate the same number of dollars in Far Hills an increase of 5.2 percent would be required. This computation is based on the fact that the area average in 1995 as shown in the chart on page 8 was \$53,308, not counting Far Hills. Applying 4.42 percent to the average wage of \$53,308 yields an increase of \$2,239. The same 4.42 percentage

applied to the 1995 Far Hills wage generates an increase of \$1,883, a short fall of \$356. That is 8/10 of 1 percent which combined with the average increase of 4.42 percent brings the total to 5.22 percent. Even if that amount were attained it would not change Far Hills' last position, merely maintaining the same fixed dollar differential below the average.

Comparison with Other Employment

Except for police officers, all the Far Hills' employees received a 3 percent increase in 1996. The following chart sets forth all the positions in the borough:

<u>Position</u>	<u>1995</u>	<u>1996</u>
Borough Clerk	\$20,000	\$20,600
Court Clerk	12,500	12,900
Planning Bd. Sec.	1,700	1,800
Bd. Health Sec.	600	700
Const. Code Sec.	2,800	2,900
Sewer Utilities Clerk	3,000	3,100
Tax Assessor	5,600	5,800
Tax Collector	8,800	9,100
Const. Code/Zoning Off.	11,800	12,200
Welfare	600	600
Fire Marshall	1,575	1,700
Magistrate	5,450	5,700
Treasurer	9,800	11,300
Chief Financial Off.	-	6,750
Registrar Vital Statistics	-	100
Bldg. Custodian	-	5,200

The last three positions are new, having been created in 1996. The only position which received more than a 3 percent increase was the borough treasurer whose salary was increased by 15 percent to compensate for additional hours worked. The borough argues that the 1995 base wage for a police officer in

Far Hills, at \$44,847, is far above any of the wages paid to any other municipal employee except the chief of police and the lieutenant.

The PBA counters by offering the collective bargaining agreement between the local school district and the education association, a contract which afforded the teachers a 5.25 percent increase this year. The PBA also notes that the teachers received additional increases in various co-curricular guides, their contract reflecting an across the board 3 percent increase in that area alone. Additionally, the PBA says, all school employees, non-professional as well as professional, receive yearly incremental boosts.

The statute requires not only a comparison of wages and salaries to other employees but also a comparison of hours and working conditions. The following chart compares elementary school teachers in Bernardsville with police officers in Far Hills:

	<u>Far Hills Police Officer</u>	<u>1996 Bernardsville Teacher</u>
Months in Working Year	12 months	10 months
Days in Working Year	260 days	185 days
Hours in Working Year	2,080 hours	1,156 hours
Sick Days Per Year	Unlimited	12 days (unlimited accumulation)
Work Holidays	Yes	No
Work Nights	Yes	No
Work Weekends	Yes	No
Work Snow Days	Yes	No

Private Employment

According to a New Jersey Department of Labor survey the average annual starting salary in New Jersey in 1994 for positions requiring a degree were as follows:

<u>Academic Major</u>	<u>Salary (1)</u>	<u>Net Working Hours Per Year (2)</u>	<u>Hourly Salary</u>
Accounting	\$27,000	1,904	\$14.18
Computer Science	30,000	1,904	15.76
Electrical Engineering	34,000	1,904	17.86
General Business Admin.	26,000	1,904	13.66
Marketing/Sales	25,000	1,904	13.13
<hr/>			
Average of the Above	\$28,400	1,904	\$14.92
<hr/>			

According to the Bureau of National Affairs the average private sector wage increase in New Jersey in 1994 was 3.5%; nationally, it was 2.9%. A report compiled by the New Jersey Business and Industry Association pegs the statewide increase for all salaried employment in 1994 at 3.6%. The past 2 years have also witnessed modifications in health insurance coverage in the private sector, be it premium contribution or curtailment of coverage or the imposition of some form of managed care.

Overall Compensation Including All Economic Benefits

The following chart compares the annual clothing and holiday benefits:

COMPARISON OF ANNUAL CLOTHING
AND HOLIDAY BENEFITS

	<u>ANNUAL CLOTHING BENEFITS</u>	<u>ANNUAL HOLIDAY BENEFITS</u>
Ewing	\$ 800	14
South Brunswick	1,050	14
Washington Twsp.	1,000	13
Lawrence	1,275	14
Monroe	800	15
Raritan	825	12
Watchung	850	12
Peapack-Gladstone	575	11
Warren	1,025	14
Somerville	600	13
North Plainfield	725	14
Manville	525	14
Hillsboro	745	15
Bridgewater	500	15
Branchburg	1,250	14
Bound Brook	965	12
Princeton	600	13
Bernards	425	12
Bernardsville	1,000	12
Averages	818	13.316
Far Hills	500	13
Far Hills Compared to Average	(\$318) (63.6%)	(.316)

The following chart shows that Far Hills lags in vacation time as well:

COMPARISON OF VACATION BENEFITS

	<u>5 Years</u>	<u>10 Years</u>	<u>15 Years</u>
Ewing	21	21	21
South Brunswick	18	20	22
Washington Twsp.	16	21	26
Lawrence Twsp.	15	20	25
Monroe	18	20	24
Raritan	12	18	24
Hopewell	27	30	33
Watchung	16	25	25
Peapack-Gladstone	10	15	20
Warren	17	23	25
Somerville	14	17	20
North Plainfield	17	24	24
Manville	12	15	20
Hillsboro	15	20	20
Franklin	15	20	24
Bridgewater	15	20	23
Bound Brook	13	17	21
Princeton	15	20	25
Bernards Twsp.	15	18	20
Averages	15.84 days	20.21 days	23.26 days
Far Hills PBA Benefits	10	15	20
Far Hills Compared to Average	(5.84 days) (58.4%)	(5.21 days) (34.73%)	(3.26 days) (16.3%)

Far Hills police officers also receive the following benefits: fully paid hospital and medical insurance; reimbursement of college credits at \$20 per credit to a maximum of

sixty for university courses related to police work; three personal days (non-cumulative), and as noted unlimited sick leave.

Clearly, the borough falls short in comparison to other municipalities in fringe benefits as well as salaries. But it does excel in the one area of unlimited sick leave. Although this is a benefit which was not all that uncommon in years past for municipal police officers, it is rarely seen today, presumably a holdover from a more paternalistic era between police departments and their employees.

Stipulation of the Parties

There are no stipulations which the parties entered into other than that the agreement shall be for a duration of three years, January 1, 1996-December 31, 1998.

Lawful Authority of the Employer

Both proposals falling within the cap limitation this statutory standard is not a factor.

Financial Impact on the Governing Unit

The following table compares Far Hills' tax rate with the other municipalities in Somerset County:

	<u>Total Tax Rate</u>	<u>Prev Tax Rate</u>
Bedminster Twp.	1.380	1.33
Bernards Twp.	1.680	1.67
Bernardsville	1.730	1.71
Bound Brook	3.290	2.90
Branchburg	1.990	2.01
Bridgewater	2.750	2.66
Far Hills Boro	1.710	1.610
Franklin Twp.	2.030	1.860
Green Brook Twp.	2.050	1.95
Hillsborough Twp.	3.940	3.79
Manville	5.110	4.930
Millstone Boro	2.410	2.29
Montgomery Twp.	2.480	2.37
North Plainfield	3.250	3.03
Peapack-Gladstone	1.530	1.440
Raritan Boro	2.320	2.29
Rocky Hill Boro	3.760	3.78
Somerville Boro	4.280	4.04
So. Bound Brook	3.340	3.22
Warren Twp.	1.810	1.69
Watchung Boro	1.820	1.72

Far Hills' tax rate in 1995 of \$1.71 per hundred dollars valuation made it the fourth lowest in Somerset County. With a 71.36 percent ratio of equalized valuation it ranked fifth from the lowest and sixteenth from the highest. Its neighboring municipalities had rates as follows: Bedminster \$1.38, Peapack-Gladstone \$1.53, Bernards Township \$1.68. The 1996 tax rate is \$1.72 as compared to Bedminster \$1.38, Peapack-Gladstone \$1.62, Bernards Township \$1.05. Far Hills' 1996 73.35 percent ratio of equalized value ranks third from the lowest in the county.

The assessed valuation in 1993 was \$124,749,800 which increased to \$129,646,484 in 1994. In 1995 it increased to \$137,482,140 - an increase of about 10 percent in the two year span. The record of tax collections in Far Hills is

strong, the collection rate in 1993 attaining 95.4 percent of the levy and in 1994 and 1995 in excess of 97.3 percent. Over these same two years the levy has actually grown and so have the cash collections. In 1993 the total collected was \$2,018,909. By 1995 it had risen to \$2,331,978, an increase of \$313,000 or over 15 percent.

According to Ranking the Municipalities, a study done by James W. Hughes and Joseph J. Seneca, Far Hills ranked number two in the county and number seven in the state in 1979 and number one in the county and number eight in the state in 1989 in per capita income. For median family income, Far Hills ranked number six in the county and number fifty-nine in the state in 1979 and number ten in the county and number seventy-nine in the state in 1989. In a listing of America's three hundred richest towns, Worth Magazine in July 1996 placed Far Hills in the number two hundred and five position, the standard used being two key indicators of wealth: average household income and average home value. Other New Jersey communities placing in the top three hundred were Alpine 22, Upper Saddle River 82, Woodcliff Lakes 152, Bernardsville 216 and Colts Neck 237.

The borough however points out that its 1996 budget contains no "fat" or hidden resources. A summary budget account status statement for September 17, 1996 reflecting percentage of expenditures three quarters through the year shows each line item to be at or near 75 percent utilized. But more critically, the borough says, is its need to purchase additional

sewer treatment capacity at a cost in excess of three quarters of \$1 million, its sewer treatment contractor having advised it that such additional capacity is urgently required. Hence, the borough points out, it must anticipate a major capital expenditure which will have to be met through financing.

The borough's argument that it faces financial difficulties if required to pay an increase of more than 3 percent per annum to its police officers poses a difficult proposition for me. The Far Hills taxpayer pays one levy for municipal, school and county purposes. Approximately one-third goes for municipal expenditures, the balance to school and county. As we have seen, a bargaining unit wage point for the two officers is \$896. The total tax levy in 1995 was \$2,331,978, the wage point thus having an impact of .0384 percent. Applying this calculation to a property owner paying \$5,000 in tax the annual impact is an increase of \$1.92. The spread between the borough's offer and the PBA's demand being three percentage points, the actual difference is \$5.76, and this in a community which enjoys one of the lowest tax rates in the county.

Cost of Living

The release from the Bureau of Labor Statistics for December 1996 shows that the Consumer Price Index for New York-Northeastern New Jersey inched up 0.1 percent in November. Increases in energy and grocery food prices were largely offset by declines in apparel, out of town lodging charges and

household furnishings and operation. For the year ended November 1996 consumer prices in this area increased 2.8 percent. With the New York-Northeastern New Jersey Consumer Price Index for All Urban Consumers at 168.4 in November, \$16.84 was required to purchase what \$10 could in the 1982-84 base period. The purchasing power of the dollar was 59.4 cents in 1982-84 dollars and 20.5 cents in 1967 dollars. The Consumer Price Index for Urban Wage Earners and Clerical Workers edged up 0.2 percent in November. The CPI-W was up 3 percent over the year.

For the year ending 1995 the Consumer Price Index was up 3 percent. According to the U.S. Bureau of Labor Statistics the Consumer Price Index during the prior four years rose as follows:

	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>
C.P.I.	142.1	146.9	151.1	154.5
% Change in C.P.I.	4.3	3.6	3	2.4

Continuity and Stability of Employment

This statutory standard would appear to support an increase greater than that offered by the borough. The total remuneration package for Far Hills police officers, as we have seen, falls well below that provided in almost every other municipality in the county and in central New Jersey. Except for the unlimited sick leave benefit, this bargaining unit falls far below average in virtually all remunerative components. In the two key areas, wages and longevity, it is thousands of dollars below the county average in the former and in the latter provides no

benefit at all.

Given this backdrop it is difficult to understand how the continuity and stability of employment in Far Hills would be enhanced by adopting the borough's wage and other proposals, proposals which if granted would drop Far Hills police officers still further behind in comparison to other police departments in the region.

Let us assume without deciding for the purpose of this award that the proposals made by the borough, such as a reduction in sick leave, are procedurally permitted, I simply fail to see any basis for their adoption. Consider for example the devastating effect on a veteran police officer of coming down with a serious illness which would require him to take more than five days off, the non-cumulative maximum proposed by the borough in lieu of his present unlimited sick leave entitlement.

* * *

Having examined the evidence and the data furnished by both sides it is my view that a three year contract providing for a 4 percent increase in the first year, a 4 percent increase in the second year, and a 4.25 percent increase in the third year strikes a reasonable balance between the needs of the police officers and that of the residents and taxpayers. I find no basis in the statutory standards for awarding any of the other items which were brought to the table by the borough, other than

the increase in travel allowance to 29 cents per mile to which the parties have apparently agreed.

AWARD

Pursuant to the authority granted by NJSA 34:13A-16g, the undersigned renders the following award:

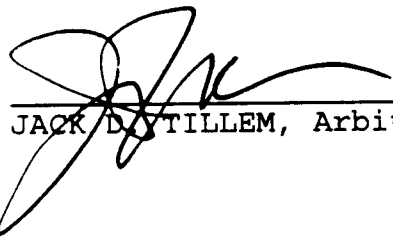
1. Term of agreement: three years, from January 1, 1996 to December 31, 1998.

2. Salaries: 4 percent increase across the board in 1996 retroactive to January 1, 1996.

4 per cent increase across the board in 1997 retroactive to January 1, 1997.

4.25 percent increase across the board effective January 1, 1998.

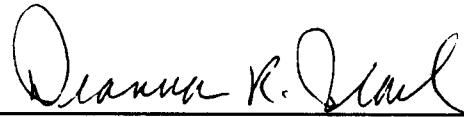
Dated: January 8, 1997



JACK D. TILLEM, Arbitrator

STATE OF NEW YORK)
COUNTY OF NASSAU) SS:

On the 8th day of January 1997, before me personally came and appeared JACK D. TILLEM, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that the same was executed by him.



DEANNA R. PEARL
Notary Public, State of New York
No. 4823999
Qualified in Nassau County
Commission Expires Nov. 30, 19 *98*