

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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RELATIONS BOARD

Aug 19 10 09 AM '96

In the Matter of
Fact-Finding Between:

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
CHAUFFEURS, WAREHOUSEMEN AND HELPERS,
LOCAL UNION NO. 20

-and-

OTTAWA COUNTY RIVERVIEW NURSING HOME

Case No. 96-MED-03-0168

Jonathan I. Klein,
Fact-Finder

**FACT-FINDING REPORT
and
RECOMMENDATION**

Appearances

For Union:

Beth B. Lee
Business Representative
Ray Swope
Union Steward

For Employer:

John R. Moore
Administrator
Eric Humphrey
Human Resource Director
Ruth Dyke
Ottawa Cty. H. R. Dir.
Jere Witt
Ottawa Cty. Administrator
Steven Schmidt, A.I.T.
Corissa Lake, A.I.T.

Date of Issuance: August 15, 1996

I. PROCEDURAL BACKGROUND

This matter came on for hearing on July 11, 1996, before Jonathan I. Klein, appointed as fact-finder pursuant to Ohio Rev. Code Section 4117.14, and Ohio Admin. Code Section 4117-9-05, on May 24, 1996.

The hearing was conducted between the Ottawa County Riverview Nursing Home ("Employer"), and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 20 ("Union"), in Oak Harbor, Ohio. The parties met in negotiations prior to the fact-finding hearing on May 23, June 10, and June 17, 1996, in an effort to resolve their differences. Despite such negotiation efforts, the parties remained unable to resolve the only remaining issue presently at impasse -- wages.

There are currently three employees within the bargaining unit -- two employees in the classifications of maintenance repair worker II, and one occupant of the groundskeeper position. There is one other employee who was in his probationary period at the time of the fact-finding hearing.

Written evidence, testimony and oral argument were presented by the representatives of both parties at hearing. The parties mutually agreed to extend the statutory deadline for issuance of the fact-finder's report and recommendations to and including August 15, 1996.

II. MEDIATION

The parties declined the fact-finder's offer to utilize mediation in the resolution of the dispute; therefore, the disputed issue proceeded directly to fact-finding.

III. FACT-FINDING CRITERIA

In the determination of the facts and recommendations contained herein, the fact-finder considered the applicable criteria required by Ohio Rev. Code Section 4117.14(C)(4)(e), as listed in 4117.14(G)(7)(a)-(f), and Ohio Admin. Code Section 4117-9-05(K)(1)-(6). This fact-finding criteria is enumerated in Ohio Admin. Code Section 4117-9-05(K), as follows:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

IV. ISSUE

The only issue before the fact-finder for resolution is the question of wages for the period of June 24, 1996, through June 23, 1999. The wages for each position are set forth in Article 40, Sections 1 through 3 of the collective bargaining agreement. (Joint Exhibit 1.) Each party was afforded a full opportunity to present its respective position and proposed contract language on the wage issue.

Findings of fact will be set forth below, followed by the fact-finder's recommendation of contract language to be considered dispositive of the collective bargaining agreement provisions at issue.

V. FINDINGS OF FACT AND FINAL RECOMMENDATION

1. Article 40 - Wages

The Union proposes a thirty (30) percent wage increase for the groundskeeper position over the period of the agreement. It also proposes a three (3) percent increase for each year in the maintenance repair I classification, and ten (10) percent, five (5) percent and five (5) percent increases for the maintenance repair II classification.¹ Currently, both employees in the maintenance II position receive \$8.49 per hour, and the groundskeeper is in progression and his current rate of pay is \$5.21 per hour.

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1. The parties stipulated there are no employees currently occupying the maintenance repair I position. They also stipulated that employees are moved into the maintenance repair II position without implementation of the contract's mutually agreed upon course of training contained in Article 40, Section 5.

The Union reasons that the bargaining unit wages are below the nursing home industry standard as set forth in the SERB benchmark report. (Union Position Statement, Exhibit 2.) Moreover, the wages are far below the \$14.50 per hour paid to the comparable position of maintenance worker - technician, an Ottawa County position the occupant of which performs work similar to the bargaining unit members at the county courthouse, the county government offices and the Employer's facility. (Union Position Statement, Exhibit 1.)

The Employer argues that comparable wage data is derived from various reports issued by the Association of Ohio Philanthropic Homes for the Aged ("AOPHA"), and a comparative report covering for-profit facilities, not-for-profit facilities and government managed long term care facilities in the State of Ohio, both urban and rural, produced by the accounting firm Nachtrab, Cousino, O'Neil, Treuhart & Company ("NCOT"). (Employer Position Statement, Exhibits 4 and 5; NCOT Analysis of Medicaid Cost Reports for Nursing Facilities, dated December 31, 1995.) The Employer emphasizes that its wage proposal is amply warranted in light of the wage statistics, and that it also provides its employees a generous fringe benefit package in 100% employer paid health insurance coverage², and a fully paid life insurance policy in the face amount of \$30,000 at a cost of \$6.60 per month per employee. When the fringe benefits are analyzed on a per patient day basis by NCOT,³

2. The cost of the health insurance is \$465 per month for family coverage, and \$225 per month for single coverage.
3. The cost of fringe benefits per patient day are calculated based upon the total fringe benefit expenses
(continued...)

the combination of total payroll taxes, fringe benefits and staff development costs place the Employer far ahead of county, proprietary, and other non-profit providers of long term care.

Moreover, as part of the internal bargaining unit wage increase comparability criteria, the Employer emphasizes it has negotiated a three percent annual wage increase for the past three years with the 120 employees (out of a total workforce of 220 to 230) represented by District 1199. The District 1199 collective bargaining agreement's term expires in December 1996, and a wage reopener in 1995 resulted in a three percent wage increase for one year. In addition, during the past five years all non-union Ottawa County employees have received overall average salary increases of 3 percent.

The reason for the proposed first year increase of 10% for the groundskeeper position is due to the fact the position went from a part-time position, to a year round position, and it also represents compensation for the volume and quality of work performed by the current groundskeeper. The Employer is attempting to act in a fiscally responsible manner, and notes that it is a self-supporting entity, rather than falling under the county's general fund. Through May of the 1996 calendar year, the year-to-date financial loss at the facility was \$697,251.62 -- a problem due to the patient census which presently runs from 160 to 165 patients for the 200 bed facility. According to John Moore, the Employer's

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for the year, including health insurance, workers compensation, unemployment compensation, life insurance and PERS contributions, divided by the number of days of service for the year. (Testimony of Moore.)

administrator, the facility is experiencing a serious cash flow problem and layoffs are a potential consequence for the difficult financial problems.

The Employer also reasons that a comparison of employees in the bargaining unit to the county's maintenance worker-technician position is inappropriate. The county has a full-time building and grounds superintendent, and in addition to the maintenance worker - technician, there are two other maintenance workers who perform more specialized electrical and heating, ventilation and air conditioning ("HVAC") work for which the technician position provides assistance. (Testimony of Jere Witt.) While the primary HVAC work of the Employer is contracted out, the county's technician and electrician maintenance workers have provided technical, electrical and carpentry repair and maintenance work at the Employer's physical plant. The county maintenance workers have the skills necessary to repair the county's jail monitors and cameras, and county custodial employees perform much of the light maintenance duties that are picked up by the bargaining unit members at the Employer's facility. The Union counters that it does not seek to compare its members to the more highly technical positions of the maintenance worker - electrical, and the maintenance worker - HVAC, even though both positions are paid the same as the maintenance worker - technician classification.

The fact-finder has reviewed the data supplied by the parties, and several observations are warranted. First, while a comparison of the job descriptions of the maintenance worker - technician employed by the county, and the Employer's maintenance repair II position (the central focus in the discussion of increases in the wage rate) creates an

appearance of comparability, the fact-finder is convinced that the former position requires far greater skill and experience, and is tied more directly to the skilled work performed by the electrical and HVAC maintenance workers. Although many of the listed job functions are identical between the two positions, the work the county technician performs is more highly technical in nature. The current occupant of the county technician position has performed the following work, alone or in conjunction with the electrician: the installation of an isolated ground-surge suppression system in the court house, annex and jail; custom built cabinets and cabinet tops; a custom built showcase for the sheriff; installation of a telephone and data system in the Ottawa County government complex, and a telephone system in the court house, annex and jail; re-key locksets and cut keys; performs all electrical and plumbing work in the county buildings; coordinates and oversees landscaping projects; replaces concrete sidewalks; supervises and coordinate trustees and work they are to perform; and helps the new employee on the HVAC systems. The fact-finder also finds it significant that the technician helped design and build physical therapy equipment for the Employer and install power for the secure care system at the nursing home. (Employer Exhibit 1.) This evidence was not refuted by the Union.

Turning to the comparable wage data submitted by the Union from the SERB benchmark report, the average entry level and top wage rates on an hourly basis are \$7.13 and \$8.48, respectively. There is only one other groundskeeper position listed at Edwin Shaw Hospital Rehabilitation Center in Summit County, with an entry level rate of \$8.22 and top level rate of \$8.42.

This data is somewhat difficult to assess for a number of reasons, including the fact that the Employer's current wage rates used in the SERB report take into account the maintenance repair worker I rates, rather than the maintenance repair worker II's top wage rate. If it is assumed, however, that the SERB data as a whole can be compared to the entry level of the maintenance repair worker I and top level of the maintenance repair worker II position, the average entry level wage reported is \$.87 per hour more, while the average top level salary of all reporting public employers is \$.01 per hour less than a maintenance repair worker II currently earns after 28 months.⁴ When the reported jurisdictions in counties of 200,000 population and above are eliminated,⁵ including the Employer, the average entry level wage of reporting entities drops to \$6.76 per hour and the average top level wage falls to \$8.13 per hour, \$.50 higher and \$.36 below the entry and top levels, respectively, of the bargaining unit maintenance repair employees.

Further, there is evidence from the AOPHA 1995 Salary Survey to suggest that the average wage for all non-profit reporting facilities in the Northwest region of the State of Ohio is \$7.64 per hour, the high wage is \$12.45 per hour. Similarly, of the forty-seven such facilities which responded to the AOPHA 1995 Salary Survey on a statewide basis with facilities containing 101 to 200 beds, the average wage for maintenance staff is \$8.39 per hour, the reported high wage is \$12.40. (Employer's Position Statement, Tab 4.) The fact-finder further notes that a telephone survey of twenty unionized nursing homes taken by

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4. The SERB report's average salaries at the entry and top levels includes the Employer.
 5. This would include those nursing homes in Cuyahoga, Lake, Stark and Summit counties.

the Employer in December 1995 reveals that of those nursing facilities surveyed which fall in the Northwestern and North Central Regions as defined by SERB, four of the seven homes require no premium contribution by the employee for single health insurance coverage. However, for family coverage only Erie County has no employee contribution requirement for family coverage.

Determining comparable jurisdictions is one of the more problematic tasks facing advocates and fact-finders alike. Certain basic criteria for judging comparables in a particular case, such as the profit or non-profit nature of the facility, the county-wide population from which the patients may be drawn, and the geographical region of the state in which the employer is situated, are important factors. With these criteria in mind, a combination of the SERB benchmark report as adjusted above, together with AOPHA's salary survey provides the best indicators that the Employer's proposal on a comparability basis is warranted. For example, the majority of the bargaining unit will receive \$8.74 per hour in the first year of the agreement, or 14.4 percent above the AOPHA reported average wage in the Northwest region of the state for all non-profits, or 7.5 percent higher than the adjusted top level wage from the SERB benchmark report.

In sum, when all the evidence of the applicable statutory criteria is considered, including the evidence of other internal bargaining unit wage increases; the comparable statewide and regional data pertaining to maintenance staff wage averages at the top and entry level; the higher skill requirements demonstrated for the maintenance worker-technician employed in the Ottawa County Building and Grounds Department; the important economic

benefit of 100 percent employer paid health insurance for single and family coverage; the composition of the bargaining unit and practice of moving employees directly out of the maintenance repair worker I position to maintenance repair work II after three years; and, the Employer's recognition of the need to boost the groundskeeper's wages immediately by 10 percent, the fact-finder recommends that the Employer's wage proposal, marked Exhibit "A", be included in the collective bargaining agreement.

Final Recommendation

After consideration of the statutory criteria and findings of fact set forth above, it is the fact-finder's final recommendation that the current wage rates contained in Article 40, Sections 1 through 3 of the collective bargaining agreement shall be adjusted in accordance with the Employer's wage proposal marked Exhibit "A," attached hereto.



JONATHAN I. KLEIN, FACT-FINDER

Dated: August 15, 1996

RIVERVIEW NURSING HOME

WAGE PROPOSAL

ARTICLE 40

WAGES

Section 1. Effective June 24, 1996

<u>Position</u>	<u>Hire Rate</u>	<u>4 Months After Hire</u>	<u>16 Months After Hire</u>	<u>28 Months After Hire</u>
Grounds Keeper	5.54	5.73	5.98	6.25
Maintenance Repair Worker I	6.45	6.69	6.93	7.17
Maintenance Repair Worker II	7.84	8.14	8.37	8.74

Section 2. Effective June 24, 1997

<u>Position</u>	<u>Hire Rate</u>	<u>4 Months After Hire</u>	<u>16 Months After Hire</u>	<u>28 Months After Hire</u>
Grounds Keeper	5.71	5.90	6.16	6.44
Maintenance Repair Worker I	6.64	6.89	7.14	7.39
Maintenance Repair Worker II	8.08	8.38	8.62	9.00

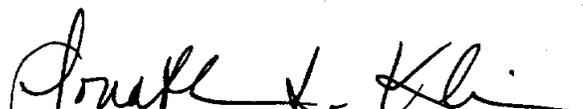
Section 3. Effective June 24, 1998

<u>Position</u>	<u>Hire Rate</u>	<u>4 Months After Hire</u>	<u>16 Months After Hire</u>	<u>28 Months After Hire</u>
Grounds Keeper	5.88	6.08	6.34	6.63
Maintenance Repair Worker I	6.84	7.10	7.35	7.61
Maintenance Repair Worker II	8.32	8.63	8.88	9.27

Exhibit "A"

CERTIFICATE OF SERVICE

Originals of the foregoing Fact-Finding Report and Recommendation were served upon Beth B. Lee, Business Agent, Teamsters Local 20, 435 South Hawley Street, Toledo, Ohio 43609, and upon John R. Moore, Administrator, Ottawa County Riverview Nursing Home, 8180 West State Route 163, P.O. Box 188, Oak Harbor, Ohio 43449 by express mail, and upon G. Thomas Worley, Administrator, Bureau of Mediation, Ohio State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215-4213, by United States mail, sufficient postage prepaid, this 15th day of August, 1996.


JONATHAN I. KLEIN, FACT-FINDER