

CLEVELAND PUBLIC LIBRARY

Special Board Meeting
September 24, 2014

RESOLUTION ACCEPTING FINDINGS AND RECOMMENDATIONS OF FACT FINDER

WHEREAS, The Cleveland Public Library (CPL) and the Service Employees International Union (SEIU), District 1199, are parties to a collective bargaining agreement which expired on December 31, 2013 but which has been extended by mutual agreement until completion of collective bargaining negotiations; and

WHEREAS, CPL and SEIU District 1199 engaged in interest-based collective bargaining negotiations throughout the fall of 2013 and spring of 2014 and were able to reach tentative agreements on all issues except the issue of wages and benefits; and

WHEREAS, SEIU District 1199 requested a fact-finding hearing in order to resolve the matter of wages and benefits. A Fact Finder was appointed by the State Employment Relations Board and a fact-finding hearing was held on September 8, 2014; and

WHEREAS, The Fact Finder issued his Findings and Recommendations on September 17, 2014. In accordance with Ohio Administrative Code Section 4117-9-05(N), these Findings and Recommendations were made available to this Board for review; now therefore be it

RESOLVED, That the Board of Trustees of the Cleveland Public Library, having reviewed the Findings and Recommendations of the Fact Finder issued September 17, 2014 in the matter of Service Employees International Union, District 1199 and the Cleveland Public Library, hereby accepts the Findings and Recommendations of the Fact Finder in their entirety; now therefore be it further

RESOLVED, That verification of this Resolution be provided to the State Employment Relations Board as required by Ohio Administrative Code Section 4117-9-05(N) within twenty-four hours of the vote count.

M _____ introduced the resolution and moved for passage;

M _____ seconded the motion and, after discussion a roll call vote was taken and the results were

Ayes: _____

Nays: _____

**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of:	:	
	:	2013-MED-10-1479
Service Employees International Union, District 1199	:	FACT FINDING REPORT
	:	FINDINGS AND RECOMMENDATIONS
and	:	
	:	September 17, 2014
Cleveland Public Library	:	

APPEARANCES

For the Union:

Corey Kern, Administrative Organizer
Josh Norris, Public Division Director
Alex Nelson, Industry Research Analyst
Erick Walker, Senior Subject Department Clerk, Government Documents
Amiya P. Hutson, Youth Services Librarian
Debbie Hajzak, Executive Board
Marvin Benton, Library Assistant (Youth Services)
Reginald Chapple, Branch Custodian
Lisa Kowalczyk, Technical Services Librarian - Acquisitions Department
Dawn Grattino, Senior Catalog Librarian
Kelly Brown, Public Services Librarian - Special Collections

For the Employer:

Tom Barnard, Attorney
Ellen Toth, Attorney
Felton Thomas, Director
Carrie Krenicky, Chief Financial Officer
Joyce Dodrill, Chief Legal Officer
Mark Nolan, Employee Benefits Consultant

**Daniel G. Zeiser
Fact Finder
P.O. Box 43280
Cleveland, Ohio 44143-0280
440.449.9311**

Fax: 440.449.9311

Email: danzeiser@aol.com

I. BACKGROUND

The Fact Finder was appointed by the State Employment Relations Board (SERB) on May 22, 2014, pursuant to Ohio Revised Code Section 4117.14(C)(3). The parties mutually agreed to extend the fact-finding period as provided under Ohio Administrative Code Rule 4117-9-05(G). The parties are the Service Employees International Union, District 1199 (Union or SEIU) and the Cleveland Public Library (Employer or Library). The Employer is a public library located in Cleveland, Ohio. Its taxing authority is the Cleveland Metropolitan School District (CMSD), meaning that the Library receives property tax money from those properties located in the geographic area served by the CMSD. It has a main office located in downtown Cleveland and 27 branches. The Union represents approximately 400 bargaining unit members, including the classifications of librarian, assistant librarian, computer networking technician, custodian, clerk, and others at all Library locations.

The Employer and the Union are parties to a collective bargaining agreement effective January 1, 2010 through December 31, 2013. The parties began interest based training and bargaining in the fall of 2013. They held 21 bargaining sessions and were able to reach tentative agreements on all issues except wages and benefits. The tentative agreements reached by the parties during negotiations are hereby incorporated into this fact-finding report. On May 5, 2014, the Employer gave its last, best offer, which was rejected by the Union. The Employer then agreed to the last proposal presented by the Union. This was also rejected, resulting in this fact-finding.

II. THE HEARING

The fact-finding hearing was held on September 8, 2014 at the Library's Lakeshore facility, 17109 Lakeshore Boulevard, Cleveland, Ohio. Each party provided a pre-hearing statement to the Fact Finder, including the collective bargaining agreement between the parties. The parties introduced the following exhibits into evidence:

Employer Exhibits

1. 6/2/2014 Email from Ellen Toth to Corey Kern re: CPL's acceptance of Union's Last Best Offer.
2. 6/9/2014 Tentative Agreement between D1199 and CPL.
3. 6/11/2014 Email from Corey Kern to Cindy Lombardo re: D1199 rejecting the Union Negotiating Committee's Last Best Offer.
4. 11/7/2013 Financial Presentation by Carrie Krenicky.
5. 2/13/2014 Financial Presentation by Carrie Krenicky.
6. 3/6/2014 Financial Presentation by Carrie Krenicky.
7. 3/24/2014 Financial Presentation by Carrie Krenicky.
8. Supplemental Information Provided to D1199 re: Premium Paid and Weighted Average for membership.
9. 7/31/2014 Financial Update by Carrie Krenicky.
10. Collective Bargaining Agreement between SEIU District 1199 and Cleveland Public Library (January 1, 2010 - December 31, 2013).
11. 7/22/2014 Medical Mutual of Ohio Proposal for Healthcare.
12. 7/31/2014 Email from Cindy Lombardo to Cory Kern with Healthcare Quotes.
13. 8/28/2014 Healthcare Renewal Presentation to CPL and D1199 by Gallagher (Mark Nolan).
14. 9/3/2014 Supplemental Information from Gallagher (Mark Nolan).
15. Collective Bargaining Agreement between Cuyahoga County Public Library and SEIU District 1199 (July 1, 2014 - March 31, 2017).
16. List of Promotions, 2010 - current.
17. Cleveland Public Library Human Resources Committee September 15, 2011 Resolution to Make Acting Appointments Permanent.
18. List of CPL Personnel with Job Classifications, Pay Grades, and Annual Salaries.
19. Jobs with Justice Education Fund Report: Improving Government through Labor-Management Collaboration and Employee Ingenuity.
20. Ohio Peer Libraries - Medina, Euclid, Lorain, Avon Lake.
21. Ohio Peer Libraries - Cuyahoga County, Stark County, Toledo-Lucas County.

Union Exhibits

- A. Cleveland Public Library Statement of Net Assets, December 31, 2010; Statement of Net Position, December 31, 2013; Statement of Activities,

- December 31, 2010; Statement of Activities, December 31, 2011, 2012, and 2013.
- B. Ohio Department of Taxation Certification, Cuyahoga County Calendar Year 2014 Estimate of the Public Library Fund Entitlement, June 13, 2014 and Revised August 22, 2014.
 - C. Cleveland Public Library Minutes of Regular Board Meetings, October 17, 2013, March 20, 2014, March 21, 2013, November 15, 2012, April 19, 2012, November 17, 2011, June 16, 2011.
 - D. Union Comparables - Medina County District Library, Euclid Public Library, Lorain Public Library, Avon Lake Public Library.
 - E. Cleveland Public Library Personnel with Salary Increases 2010-2014.
 - F. Cleveland Public Library Monthly Activity Report for December 2009 and November 2013.
 - G. Cost Analysis for Increases of 2%, 2%, and 2%.
 - H. Cleveland Public Library EEO-4 Reports, Full/Part Time Employees, April 1-30, 2014 and December 1-30, 2009.

The Ohio public employee bargaining statute provides that SERB shall establish criteria the Fact Finder is to consider in making recommendations. The criteria are set forth in Rule 4117-9-05(K) and are:

- (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 interests 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 the issues

submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

The Fact Finder hopes the discussion of the issues is sufficiently clear to the parties. Should either or both parties have any questions regarding this Report, the Fact Finder would be glad to meet with the parties to discuss any remaining questions.

III. ISSUES AND RECOMMENDATIONS

The Library has two (2) main funding sources: the public library fund and general property tax revenues. The public library fund is money provided by the State of Ohio to public libraries throughout Ohio. The public library fund was established in 1985 as replacement revenue after the elimination of Ohio's intangible personal property tax. It is currently set at 1.66% of the state's general revenue fund tax revenues. General property tax revenues are those collected from property taxes in the CMSD geographic area. Cuyahoga County certifies the amount that it expects to receive in property taxes from properties in the school district and transfer to the Employer. The Library is not permitted to budget more than what is certified. The Library also receives funding from rollback, homestead, and commercial activity taxes; interest on investments; income from services it provides to other libraries such as through CLEVNET, a library consortium that allows others to access on-line catalogs and library materials; and fines, fees, donations, and miscellaneous revenues. Of these sources, the public library fund and property taxes provide approximately 80% of the Library's funding.

As with many other institutions that rely on public funds, the Employer has seen a decrease in its funding since 2008. In 2009, total revenues were \$67.1 million, which fell to \$50.7 million in 2013. They are certified at \$52.52 million in 2014. Specifically,

public library fund revenue decreased from \$26.5 million in 2008 to \$20.34 million in 2013, while \$19.74 million is certified for 2014 and \$20.5 million for 2015. Property tax revenues fell from \$31.84 million actually collected in 2009 to a current certification of \$24.14 million. Part of the drop in property taxes is due to collection rates. Cuyahoga County was hit particularly hard by the financial crisis and resultant real estate foreclosures. In 2006, the collection rate on property taxes was 96.45%. It fell to 86.54% in 2008, 84.10% in 2010, and 76.55% in 2013. And part of the decline is due to falling property values. In 2007, property taxes were certified at \$34.2 million based on assessed values of \$5.9 billion at a 100% collection rate. Cuyahoga County revalues properties every six (6) years and a revaluation occurred in 2013. Currently, taxes are certified at \$28.6 million based on assessed values of \$4.9 billion at a 100% collection rate. As noted above, however, the collection rate in 2013 was 76.55%.

The Library's other funding sources have decreased as well, save perhaps its revenues from services to others. Rollback, homestead, and commercial activity taxes have fallen from \$7.85 collected in 2009 to a current certification of \$4.19 million. It should be noted that, historically, more such taxes have been collected than certified. For instance, \$1.36 million and \$1.9 million more were collected than certified in 2009 and 2011, respectively. Given interest rate declines since 2008, interest income on investments have likewise declined from \$.99 million in 2009 to \$.23 million in 2012. The Library expects to receive more for services it provides to other library systems. In 2009, it collected \$2.86 million. For 2013, \$3.05 million was certified and \$3.21 million is projected for 2014. Other revenues, i.e., fines, fees, donations, and miscellaneous items have decreased from \$1.86 million in 2009 to \$1.65 million in 2012 and a

projected \$.92 million in 2014. Total revenues for 2014 are certified at \$52.52 million. The Library projects revenues of \$53.17 million annually through 2018.

While revenues have fallen, the Employer has done a commendable job of cutting expenses. Much of this has been accomplished by working with the SIEU. They have worked to avoid layoffs, though overall employment has decreased. This has been accomplished mainly through attrition. The SEIU notes that there has been an increase in officials and administrative employees from 77 in 2009 to 82 in 2014. It also is concerned that a number of administrators received increases in the last few years, while bargaining unit members have received wage freezes. The Employer counters that employees were given increases only when they were transferred to different positions or were given additional duties and the same applied to approximately 200 bargaining unit employees.

Total expenses have declined from \$68.49 million in 2009 to \$59.88 million in 2012. Expenditures in the 2013 budget were \$64.68, \$11 million more than the 2013 original budget and almost \$4.5 million more than the revised version. The Library originally budgeted for \$50.33 million in expenses, but is now forecasting \$54.31 total expenditures, more than the certified funds for 2014. Ideally, it prefers to allot 60% of expenditures to salaries and benefits, 20% to library materials, and 20% to other expenses such as purchased and contracted services, supplies, and capital outlays. Since 2010, however, the Library has seen salaries and benefits increase from 61% of expenses to 62.8% in 2013, with projections of 63.6% in 2014. Based on its forecasts, it must cut almost \$2 million from the 2013 budget for 2014.

It must be noted that actual revenues typically are greater than those projected or certified, while expenditures are less than operating appropriations. Thus, in 2009, certified revenue was \$63.28 million while actual revenues were \$67.12 million and appropriations were \$66.64 million while actual expenditures came in at \$63.37 million. Actual revenues were approximately \$4 million more than certified and expenditures about \$2.5 million less than appropriations in 2010. In 2011, they were about \$4 million more and \$1 million less, respectively, and the numbers were similar in 2012. In 2013, the Library collected about \$600,000 more than certified and spent about \$1.5 million less than anticipated.

It almost goes without saying that health care costs are an important and ever increasing part of expenses. Here, the Library's current health care costs for 2014 are \$4,975,541. It obtained a quote from its current carrier that the costs for 2015 would increase by 23%, or \$1,144,194. The revised quote indicated a 16.01% (\$878,680) increase. The library also obtained quotes from other carriers of 14.66% (\$729,195) and 14.99% (\$745,890). These costs are based on continuing the current premium plan, which has no deductible for network providers and \$5,000/\$10,000 for non-network costs, 100% co-insurance within network (70% non-network), total out of pocket expenses of \$1,000/\$2,000 network (\$10,000/\$20,000 out of network), \$15 co-pays for office visits (70% for non-network) and prescription costs of \$10/\$20/\$40/\$70 (not covered non-network). Ninety-five percent (95%) of the Employer's employees are in this plan. This is a rich plan and will be subject to the Cadillac tax under the Affordable Health Care Act effective January 1, 2018, based on an 8% annual inflation rate. As noted above, the inflation rate for 2015 would be at least 14%. The Library's

standard plan is less rich: a deductible of \$300/\$600 network (\$600/\$1,200 non-network), 80% co-insurance (70% non-network), \$1,800/\$3,600 out of pocket (\$3,600/\$7,200 non-network), \$20 co-pays for office visits (70% out of network), and prescription costs of \$10/\$20/\$40/\$70 (not covered out of network). Five percent (5%) of Library employees are in this plan. Eliminating the premium plan, adopting the standard plan as the primary plan, and adding additional plans with added costs to employees would result in an increase of about \$30,000, saving \$1.14 million. The Employer proposed this while this fact-finding process progressed, which would allow it to add a new short term disability plan as follows: benefits would begin after the greater of 15 days or the number of sick days an employee had in his or her sick bank; benefits would be 50% of the employee's weekly income to a maximum of \$1,200 per week for 11 weeks. The plan would allow employees to purchase an increase up to 70% of weekly income or another increase up to 24 weeks at monthly premiums of \$7.11 and \$10.90, respectively. The plan year runs from October 1 through September 30.

The last Union proposal, which the Employer accepted after its last, best offer was rejected included: a 2% increase, retroactive to January 1, 2014 and a July 2014 health care reopener if the increase for 2015 was projected to be over 10%; a 1.5% increase for 2015 if the health care premium increase were 10% or less (existing health care split of 84% Employer and 16% employee continued), provided that, if the health care premium increase were more than 10% but equal to or less than 15%, employees would receive a \$.75 wage increase and the health care cost over 10% split 50/50, provided further that, if the health care premium increase were more than 15%, employees would receive no increase and the health care cost over 15% split 50/50;

and, for 2016, a 1.5% increase if the health care premium increase were 10% or less (existing health care split of 84% Employer and 16% employee), provided that, if the health care premium increase were more than 10% but equal to or less than 15%, employees would receive a \$.75 wage increase and the health care cost over 10% split 50/50, provided further that, if the health care premium increase were more than 15%, employees would receive no increase and the health care cost over 15% split 50/50. During the bargaining unit vote rejecting it, Union members voiced concern over wage increases being tied to health care premiums.

III. ISSUES AND RECOMMENDATIONS

Issue: Article XIV, Wages and Benefits

Union Position: A 2% increase retroactive to January 1, 2014, and 2% increases for 2015 and 2016.

Employer Position: The wage increases tied to health care as outlined in the Union's last proposal that the Employer accepted and the bargaining unit rejected.

Findings: These are not the best of times for public employers and employees. Funding has been cut, taxpayers are not kind to proposed tax increases or bond levies, and private employees see public employees as the "haves" while they are the "have nots." In this case, the parties have been responsible with tax money and acted commendably. The Library has cut expenses in the face of funding decreases and the Union has worked with it to achieve those cuts. For example, the Employer has closed a library, cut hours by 10%, eliminated Sunday hours, and furloughed employees. The SEIU has worked with the Library on sick leave and eliminating Sunday hours. Remarkably, they have achieved these cuts without layoffs, reducing the work force

through attrition and retirement. This is what good governing and labor-management relations are all about.

The parties continue to be faced with financial issues, though. As noted above, revenue projections for the next year or two are not rosy. Funding from the public library fund is certified at \$19.74 million for 2014 and \$20.5 million for 2015, while the collection rate for property taxes, though slowing, continues to drop. Since these sources account for about 80% of the Employer's funding, the picture does not look to improve in the near future. Expenses, meanwhile, have not decreased correspondingly. This is particularly so with health care. The Employer currently pays almost \$5 million per year for health care. The projected increase for continuing current plans is another \$730,000 under the best quote. Add to this the premier insurance plan will be subject to the Cadillac tax under the Affordable Health Care Act beginning in 2018, based on 8% increases, which is already exceeded by the projection for 2015. The tax is estimated be more than \$550,000, equal to \$1,140 per enrolled employee or \$.55 per hour. This cannot continue given current revenue projections. The bargaining unit has not received an across the board wage increase in some time. As the cost of living has increased, employees' wages have not. It is time for an increase.

The SEIU pointed to several comparables, including Medina County District Library, Euclid Public Library, Lorain Public Library, and Avon Lake Public Library. These are all in northeast Ohio and compete with the Employer for employees. However, all are much smaller than the Employer. Avon Lake and Euclid have no branches, only a main location. The Employer submitted the Cuyahoga County Public Library (CCPL) as a comparable. This system encompasses much of Cuyahoga

County outside the geographic limits of the CMSD. It employs a similar number as the Employer here, has a slightly larger overall budget, and includes the same number of branches, 27. As the Union noted, the CCPL does have \$75 million in bond debt that the Employer does not have. Overall, however, it appears to be a better comparison than those proposed by the SEIU. The CCPL recently completed negotiations with the SEIU, agreeing to a 1% increase in December 2014, and 2% increases in April 2015 and 2016 provided its funding from the public library fund is at least \$60 million in those years. The CCPL and the SEIU also agreed to eliminate the zero deductible health insurance plan effective January 1, 2015, along with making other changes in health insurance, including \$400 single and \$800 employee plus 1 and family deductibles, and \$2,000/\$4,000 annual out of pocket maximums.

Debbie Hajzak has been an SEIU member since 1990 and on the bargaining team and the health care committee. She testified that the committee has worked together to make important changes to health insurance and has always been able to work out health care issues. The contract has had reopeners and they have worked. It should be noted that the parties are currently negotiating health care under the reopener.

Recommendation: The Fact Finder recommends a wage increase of 1.5% retroactive to January 1, 2014 and future increases of 1.5% effective January 1, 2015 and 1.5% effective January 1, 2016.

The premium health care plan must be phased out. It is too expensive and will result in hefty Cadillac taxes eventually, likely more than projected. However, the plan year ends in two (2) weeks, on September 30, and the parties are currently negotiating.

According to Hajzak's testimony, the parties have had success in working these issues out. Thus, the Fact Finder recommends that the premier plan be eliminated effective September 30, 2015 and the current standard plan become the highest benefit level plan. This will give the parties sufficient time to work out any other necessary changes.

All tentative agreements reached by the parties during negotiations are incorporated into this fact-finding report.

Dated: September 17, 2014



Daniel G. Zeiser
Fact Finder