

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

Philadelphia Fire Fighters Union, Local 22, International Association of Fire Fighters, AFL-CIO, by it's guardians ad Litem, Thomas O'Drain President, Leslie Yost Vice President and William Gault Vice President, etal. : **CIVIL TRIAL DIVISION**
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vs

The City of Philadelphia, etal : **June TERM, 2004 NO.3755**

Control #04-062544

ADJUDICATION

Plaintiffs' herein seek an injunction pending resolution of Arbitration proceedings.

Plaintiffs' allegations are that the redevelopment plan by which 8 fire companies would be

abolished violates the Firefighters Collective Bargaining Agreement with the City. This

discussion is followed by complete Findings of Facts and Conclusions of Law.

The Court finds that the plan does violate the Collective Bargaining Agreement and that plaintiffs' & its members will suffer immediate and irreparable harm if this Preliminary Injunction is not entered.

The Court has heard from the Union President, the Fire Commissioner, the Budget Director and others and is impressed by their earnest desire to fully & accurately present the justifications for either implementing or scrapping the plan. The Court has no doubt that each has spoken with sincerity. The Court has not heard from anyone from the City to explain its decision

to make these cuts in basic fire coverage as opposed to cuts in less essential services in other offices, departments or branches of government.

Firefighters' Union President O'Drain testified that neither he nor members of the Union participated in preparation or review of the plan & did not know its contents until it was presented to them sometime on June with an implementation date of July 1, 2004. The Union's request for input or information has either been ignored or met with evasive responses. He further testified that the plan would place the fire fighters' and the public at risk.

Fire Commissioner Hairston testified that the Fire Department's fiscal year budget for 2005 was originally cut by \$ 13.8 million dollars which would have required the closure of fourteen fire companies. To his credit, he refused to close 14 companies, but eventually was able to persuade the City to accept a plan calling for the closing of eight companies, thereby saving \$ 6.8 million dollars. The companies to be closed were chosen after test runs were performed to ascertain response times. While we have no doubt that these tests were performed, they were, at best informal & their results never produced to the Court.

While Commissioner Hairston was prepared to implement this plan, he testified that if not for the lack of funding he would not close these companies.

It is beyond doubt that the City of Philadelphia is in the middle of a fiscal crisis. However its plan will place the City in even a greater risk - that of loss of life. Our fire fighters' are among our most noble civil servants. They are among a chosen few who daily risk their lives as a condition of employment. As dictated by their contract they are entitled to more assurance that the Redevelopment Plan will not place unreasonable and life-threatening burdens upon them, and the Philadelphians the so selflessly serve.

As to the fiscal consequences, the City has failed to demonstrate that less vital services are not amendable t the same degree of budgetary surgery. Further, a more complete and reliable survey may discover greater savings. In any event the cost of \$ 8.6 million dollars is insignificant compared to the risk of harm created by the implementation of the plan.

It is apparent that the study in question was the best the Fire Department could do under the time constraints imposed upon it. However, the budgetary crisis was not an unforeseen event and should not be used as an excuse to dispense with a more reliable study and cut the most basic of all city services.

FINDINGS OF FACTS

The court accepts Plaintiffs proposed findings of facts: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 28, 33, 34, 35, 40, 42, 44 and 45.

The Court accepts proposed findings of facts of Defendant as follows: 6, 7, 9, 10, 13, 17 (except for last line), 23, 24, 25, 26, 28, 29, 30, 31, 32, 33, 34, 37, and 38.

CONCLUSIONS OF LAW

The Court accepts Plaintiffs proposed conclusion of law: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29.

The Court accepts Defendant's proposed conclusion of law: 13.

PRELIMINARY INJUNCTION ORDER

AND NOW, this 14th day of JULY, 2004, it is hereby ORDERED and DECREED that Plaintiff's request for preliminary injunction is **GRANTED**, as the Defendant City of Philadelphia, it's officials, agents, & employees, are hereby enjoined from implementing it's July 1, 2004 company closure plan, including but not limited to the closure of any engine or ladder company, pending the outcome of grievance and arbitration proceedings pursuant to the collective bargaining agreement

between Local 22 and the City of Philadelphia, and related administrative proceedings before the Pennsylvania Labor Relations Board.

It is further ORDERED that the parties proceed with all due deliberation in the selection of arbitrators and scheduling of arbitration, and that an arbitration hearing be held within sixty (60) days of the docketing of this order.

There will be no automatic supersedes on appeal of this Order.

Bond on file to remain.

BY THE COURT

MATTHEW E. GARRAFIELDLO, J.