

COLLECTIVE BARGAINING

Fixed labor agreement didn't provide 'vested' right to retiree health benefits

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On August 22, 2017, the 1st Appellate District upheld the city of Vallejo's decision to reduce its contributions to police officers' future retiree health insurance premiums. The court found that a "vested" right to retiree health benefits may not be inferred from a labor agreement that is fixed in duration absent "a clear basis in the contract or convincing extrinsic evidence."

Vallejo reaches agreement on retiree health benefits

In 2008, Vallejo declared bankruptcy. In the midst of the bankruptcy proceedings, the city and the Vallejo Police Officers Association (VPOA) entered into an agreement that modified the parties' existing labor contract. The new agreement, which lasted from 2009 to 2012, provided, among other things, that VPOA retirees would receive the same direct contribution for medical benefits as active employees and capped the city's direct contribution toward active employees' medical benefits at 100 percent of the Kaiser North rate.

Union claims irrevocable 'vested' right

When the 2009 agreement was set to expire, the city initiated negotiations over a successor labor contract with the VPOA. The parties eventually reached an impasse in negotiations. The main sticking point was the VPOA's insistence that the new agreement expressly recognize a vested (i.e., irrevocable) right to direct retiree medical benefit contributions equal to 100 percent of the Kaiser North rate.

After participating in state-mandated advisory fact-finding, the city unilaterally implemented its final offer on retiree medical contributions, which reduced its direct medical contributions to \$300 per month for active VPOA members and retirees. The VPOA then filed a petition for a writ of mandate asking the Solano County Superior Court to reverse the implementation, claiming the city unlawfully impaired VPOA members' vested right to receive retiree health benefits at the full Kaiser North rate. The superior court denied the VPOA's petition and entered a judgment in the city's favor. The VPOA appealed.

Court rejects union's 'vested' right claim

A panel of the 1st Appellate District unanimously affirmed the superior court's decision. In doing so, the

court of appeal relied heavily on *Orange County, Inc. v. County of Orange*, 52 Cal.4th 1171 (2011). In that case, the California Supreme Court stated that a vested right to lifetime retiree health benefits should not be inferred absent “a clear basis in the contract or convincing extrinsic evidence.” As explained in *Orange County*, those requirements are necessary to “ensure that neither the governing body nor the public will be blindsided by unexpected obligations.”

Applying the standards articulated in *Orange County*, the court recognized that obligations in a labor agreement ordinarily cease when the agreement expires and that a party asserting that rights survive the agreement’s expiration “must overcome the presumption” that the agreement does not create those rights. The court of appeal found that the “language of the 2009 Agreement does not explicitly confer a vested right to retiree medical benefits in the amount of the Kaiser rate, nor does it provide a clear basis for implying such vested right.”

The court also found that the VPOA failed to present “convincing extrinsic evidence” of a vested right. During the superior court proceedings, the VPOA submitted declarations on behalf of individuals who signed the 2009 agreement as evidence of the parties’ intent to provide a vested right to fully paid retiree health benefits. The court of appeal, however, did not find the declarations persuasive. Under *Orange County*, only “the City’s intent determines the rights, express or implied, created by the 2009 Agreement.” Therefore, the court held that “the subjective understandings of individuals, as well as understandings communicated outside the approval process, are not admissible as evidence of the City’s intent.”

Additionally, the court of appeal noted that during negotiations of the 2009 agreement, the VPOA submitted a proposal that “could be read to provide a vested right to the full Kaiser premium.” The court found that the city’s rejection of the proposal contradicted the VPOA’s claim that by entering into the agreement, the city intended to provide a vested right to retiree medical benefits at the full Kaiser rate. *Vallejo Police Officers Association v. City of Vallejo* (Case No. A144987).

Bottom line

Future retirement benefits for active employees (as opposed to employees who have already retired) generally are a mandatory subject of bargaining under the Meyers-Milias-Brown Act and similar labor relations statutes. As a result, many collective bargaining agreements and memos of understanding (MOUs) contain provisions addressing future retirement benefits for active employees.

This case reinforces the importance of the language in MOUs related to retirement benefits. While the union pointed to seemingly innocuous words in the parties’ agreement in an effort to establish a vested right, the

court’s decision recognizes that simply addressing future retirement benefits in an MOU is not sufficient to establish vesting. There still must be a clear statement of the municipality’s intent to grant a specific benefit beyond the term of the agreement.

This story may not be over. On October 2, 2017, the VPOA filed a petition seeking review of the decision by the California Supreme Court, so another chapter in this case may be yet to come.

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