

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

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In the Matter of

CITY OF MALDEN

and

MALDEN FIREFIGHTERS UNION,  
LOCAL 902

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\*  
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Case No.: MUP-14-3498

Date Issued: January 8, 2015

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Hearing Officer:

Kendrah Davis, Esq.

Appearances:

Jillian Ryan, Esq. - Representing the Malden Firefighters Union,  
Local 902

Albert Mason, Esq. - Representing the City of Malden

**HEARING OFFICER'S DECISION**

**SUMMARY**

1 The issue is whether the City of Malden (City) has failed to bargain in good faith  
2 by not providing the Malden Firefighters Union, Local 902 (Union) with information that  
3 is relevant and reasonably necessary for the Union to execute its duties as the  
4 exclusive bargaining representative for a group of firefighters employed by the City in  
5 violation of Section 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts  
6 General Laws, Chapter 150E (the Law).

1 For the reasons explained below, I find that the City violated the Law when it  
2 failed to bargain in good faith by not providing the Union with information that is relevant  
3 and reasonably necessary for the Union to execute its duties as exclusive bargaining  
4 representative for firefighters employed by the City.

5 STATEMENT OF THE CASE

6 On February 18, 2014, the Union filed a Charge of Prohibited Practice (Charge)  
7 with the Department of Labor Relations (DLR) alleging that the City had engaged in  
8 prohibited practices within the meaning of the Law. On April 10, 2014, a DLR  
9 Investigator issued a Complaint of Prohibited Practice (Complaint), alleging that the City  
10 had violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law by failing to  
11 provide the Union with information that is relevant and reasonably necessary for the  
12 Union to execute its duties as exclusive bargaining representative. On or about April  
13 15, 2014, the City filed its Answer. On May 21, 2014, the DLR issued an amended  
14 Complaint.<sup>1</sup> The City amended its Answer on December 30, 2014 as follows:

15 Please be advised that in accord with the provisions of 456 CMR [15.08,  
16 Waiver] of Hearing, the Respondent in MUP-14-3498 has chosen not to  
17 contest the allegations set forth in the amended complaint.

18 In accordance with DLR Rule 15.08, 456 CMR 15.08, the City admits as true all  
19 the allegations of the Amended Complaint. The City has waived a hearing and has  
20 authorized the hearing officer--without a hearing, without taking evidence and without  
21 findings as to facts or other intervening procedure--to make, enter, issue and serve

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<sup>1</sup> The Amended Complaint changed only the hearing cycle dates but did not change the substance of the allegations.

1 upon the City an order to cease and desist from the violation of the Law charged in the  
2 Amended Complaint.

3 The Amended Complaint alleged:

- 4 1. The City of Malden (City) is a public employer within the meaning of  
5 Section 1 of the Law.  
6
- 7 2. The Union is an employee organization within the meaning of Section 1 of  
8 the Law.  
9
- 10 3. The Union is the exclusive bargaining representative for a group of  
11 employees including firefighters employed by the City.  
12
- 13 4. On or about September 19, 2013, the Union requested the following  
14 information from the City, and stating in pertinent part (emphasis in  
15 original):  
16
  - 17 A. Copies of any Prospectus, Official Statement, or Continuing Disclosure  
18 Report issued by the City in connection with any long or short term  
19 financing completed or contemplated since January 1, 2012 to the  
20 extent they are not available online. *If available online, please provide  
21 appropriate link/address information.*  
22
  - 23 B. Copies of any Ratings reports or other advisory information concerning  
24 the City, received from Moody's or Standard and Poor's, or any other  
25 rating agency since January 1, 2012 to the extent they are not  
26 available online. *If available online, please provide appropriate  
27 link/address information.*  
28
  - 29 C. Copies of the City's June 30, 2012 audited financial statements and  
30 management letter, along with the City's response to the management  
31 letter. *If available online, please provide appropriate link/address  
32 information.*  
33
  - 34 D. Copies of all City Assessors' declarations of overlay surplus since  
35 January 1, 2011.  
36
  - 37 E. Copies of the FY13 and FY14 City budgets as voted. *If available  
38 online, please provide appropriate link/address information.*  
39
  - 40 F. Reports by Budget Line Item/Account for General Fund Revenues and  
41 Expenditures, showing budgeted and actual amounts, for FY13 and for  
42 FY14 YTD.  
43

- 1 G. Copies of the City's internally prepared Financial Statements for FY  
2 2013 for all funds especially the General, Special Revenue, Capital  
3 Projects, and Trust and Agency Funds. Copies marked "draft – subject  
4 to adjustment" are quite acceptable if all accounting is not yet  
5 complete.  
6
- 7 H. General ledger trial balances, or a post-closing trial balance for FY13,  
8 for all accounts by fund along with a listing of all account balances by  
9 fund at 6/30/13, if such detail is not included in the General Ledger trial  
10 balance listings.  
11
- 12 I. A listing of all general ledger transactions posted to the City's Health  
13 Insurance Trust Fund account(s) in FY13 and FY14 YTD.  
14
- 15 J. Copies of any and all reports and/or analyses received from the City's  
16 Health Insurance consultants since July 1, 2012.  
17
- 18 K. A listing of calendar 2012, or FY 2013, earnings by employee for the  
19 Police Department and for the Fire Department showing name, rank,  
20 appointment/seniority date, total earnings, overtime earnings,  
21 educational incentive/"Quinn" earnings, detail earnings, and other  
22 earnings.  
23
- 24 L. Copies of CBA's/MOA's in effect from FY11 to the present for all City  
25 bargaining units other than the Fire Department bargaining unit along  
26 with MOA's relating to all CBA's currently in effect. *If available online,*  
27 *please provide appropriate link/address information.*  
28
- 29 M. Copies of employment agreements in effect for the Police Chief and  
30 the Fire Chief, along with copies of the City's wage plan or employment  
31 agreements in effect for City Hall employees and all other non-  
32 represented employees.  
33
- 34 N. A listing of grade changes/increases granted to City Hall employees  
35 (represented or non-represented) since January 1, 2012.  
36
- 37 O. A copy of the most recent actuarial valuation of the City's Other Post-  
38 Employment Benefits and any related reports. *If available online,*  
39 *please provide appropriate link/address information.*  
40
- 41 5. On September 24, 2013, the City responded to the Union's September 19,  
42 2013 information request described in paragraph 4 and attached  
43 documents responsive to requests C and O.

- 1           6.     The City's September 24, 2013 response to the September 19 information  
2           request described in paragraph 4 did not provide information fully  
3           responsive to requests A-B, D-L, and N.  
4
- 5           7.     The City's September 24, 2013 response to the September 19 information  
6           request described in paragraph 4 provided information in response to  
7           request M, but did not provide the information in a format or manner that  
8           clearly identified the information requested.  
9
- 10          8.     On or about December 5, 2013, the Union renewed its September 19,  
11          2013 information request described in paragraph 4 and explained how the  
12          City's September 24 response pertaining to requests A-B, D-L, N and M  
13          was inadequate.  
14
- 15          9.     The Union's December 5, 2013 renewed information request included a  
16          new request for the City's June 30, 2013 audited financial statements and  
17          the accompanying management letter.  
18
- 19          10.    On or about December 19, 2013, the City responded to the Union's  
20          December 5, 2013 information request described in paragraph 8 and  
21          provided the information for requests A-B and D-J. The City provided all of  
22          information request K except the information pertaining to the Malden  
23          Police Department.  
24
- 25          11.    The City's December 19, 2013 response did not provide information  
26          responsive to requests L-N or the request for the June 30, 2013 audited  
27          financial statements and the accompanying management letter.  
28
- 29          12.    On January 8, 2014, the Union renewed its request for information from  
30          the City and indicated that the City's December 19, 2013 response in  
31          regards to requests L- N, and the Police Department portion of request K  
32          were inadequate.  
33
- 34          13.    On or about January 10, 2014, the City responded to the Union's January  
35          8, 2014 request described in paragraph 12 and provided no information  
36          responsive to that request.  
37
- 38          14.    On or about January 13, 2014, the Union renewed its January 8, 2014  
39          request for information.  
40
- 41          15.    On or about January 25, 2014, the City responded to the Union's January  
42          13, 2014 information request described in paragraph 14 but failed to  
43          provide the information responsive to requests L-N and the Police  
44          Department portion of request K.  
45

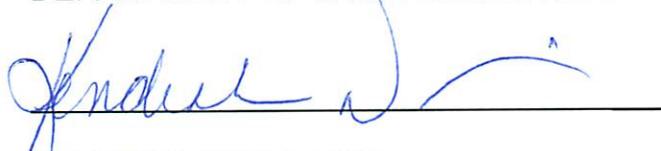
- 1           16.    On or about January 28, 2014, the Union renewed its January 13, 2014  
2           request for information responsive to requests L-N.  
3
- 4           17.    On or about January 28, 2014, the Union clarified prior information request  
5           K, stating that it sought:  
6
- 7                    I.     The total FY13 earnings for each employee of the Malden  
8                    Police Department.  
9
- 10                   II.    How much overtime was paid to each employee of the Malden  
11                   Police Department during FY13.  
12
- 13                   III.   How much educational incentive was paid to each employee of  
14                   the Malden Police Department during FY13.  
15
- 16                   IV.   The appointment date for each current employee of the Malden  
17                   Police Department.  
18
- 19           18.    On or about February 5, 2014, the City responded to the Union's January  
20           28, 2014 requests described in paragraphs 16 and 17 and provided  
21           information responsive to requests I, II, and III. The City did not provide  
22           information responsive to requests IV and L-N.  
23
- 24           19.    The information referred to in paragraphs 4, 9, and 17 is relevant and  
25           reasonably necessary to the Union's performance as the exclusive  
26           collective bargaining representative.  
27
- 28           20.    The City provided the information responsive to requests A-B, D-K (except  
29           request part IV referred to in paragraph 17) after an unreasonable delay.  
30
- 31           21.    The City failed to provide the information responsive to requests L-N in  
32           paragraph 4, the June 30, 2013 audited financial statements and the  
33           accompanying management letter described in paragraph 9, and the  
34           information requested as IV in paragraph 17.  
35
- 36           22.    By the conduct described in paragraph 20, the City has failed to bargain in  
37           good faith by not timely providing the Union with information that is  
38           relevant and reasonably necessary for the Union to execute its duties as  
39           collective bargaining representative in violation of Section 10(a)(5) of the  
40           Law.  
41
- 42           23.    By the conduct described in paragraph 21, the City has failed to bargain in  
43           good faith by not providing the Union with information that is relevant and  
44           reasonably necessary for the Union to execute its duties as collective  
45           bargaining representative in violation of Section 10(a)(5) of the Law.  
46



- 1           when requested by the Union;
- 2
- 3           b. Failing and refusing to bargain collectively in good faith with the Union
- 4           by refusing to timely provide relevant and reasonably necessary
- 5           information when requested by the Union;
- 6
- 7           c. In any like or similar manner interfering with, restraining or coercing
- 8           employees in the exercise of their rights protected under the Law.
- 9
- 10          2. Take the following affirmative action that will effectuate the purpose of the
- 11          Law:
- 12
- 13          a. Provide the Union with:
- 14
- 15                i. Copies of CBA's/MOA's in effect from FY11 to the present for
- 16                all City bargaining units other than the Fire Department
- 17                bargaining unit along with MOA's relating to all CBA's
- 18                currently in effect;
- 19
- 20                ii. Copies of employment agreements in effect for the Police
- 21                Chief and the Fire Chief, along with copies of the City's wage
- 22                plan or employment agreements in effect for City Hall
- 23                employees and all other non-represented employees;
- 24
- 25                iii. A listing of grade changes/increases granted to City Hall
- 26                employees (represented or non-represented) since January
- 27                1, 2012;
- 28
- 29                iv. The appointment date for each current employee of the
- 30                Malden Police Department from FY 2012 and FY 2013; and
- 31
- 32                v. The City's June 30, 2013 audited financial statements and
- 33                the accompanying management letter.
- 34
- 35          b. Sign and post immediately in conspicuous places where employees
- 36                usually congregate or where notices to employees are usually posted,
- 37                including electronically, if the City customarily communicates to its
- 38                employees via intranet or e-mail, and maintain for a period of thirty (30)
- 39                consecutive days thereafter signed copies of the attached Notice to
- 40                Employees;
- 41
- 42          c. Notify the DLR within 30 days after the date of service of this decision
- 43          and order of the steps taken to comply with its terms.

SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS



KENDRAH DAVIS, ESQ.  
HEARING OFFICER

APPEAL RIGHTS

The parties are advised of their right, pursuant to M.G.L. Chapter 150E, Section 11 and 456 CMR 13.15, to request a review of this decision by the Commonwealth Employment Relations Board by filing a Request for Review with the Executive Secretary of the Department of Labor Relations within ten days after receiving notice of this decision. If a Request for Review is not filed within ten days, this decision shall become final and binding on the parties.



# THE COMMONWEALTH OF MASSACHUSETTS

## NOTICE TO EMPLOYEES

**POSTED BY ORDER OF A HEARING OFFICER OF THE  
THE MASSACHUSETTS DEPARTMENT OF LABOR RELATIONS  
AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS**

A Hearing Officer of the Massachusetts Department of Labor Relations has held that the City of Malden (City) has violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of G.L. Chapter 150E (the Law) by failing to bargain in good faith by not providing the Malden Firefighters Union, Local 902 (Union) with information that is relevant and reasonably necessary for the Union to execute its duties as exclusive bargaining representative.

Chapter 150E gives public employees the right to form, join or assist a union; to participate in proceedings at the DLR; to act together with other employees for the purpose of collective bargaining or other mutual aid or protection; and, to choose not to engage in any of these protected activities.

The City assures its employees that:

- WE WILL NOT fail to bargain collectively in good faith with the Union by refusing to provide relevant and reasonably necessary information when requested by the Union;
- WE WILL NOT fail to bargain collectively in good faith with the Union by refusing to timely provide relevant and reasonably necessary information when requested by the Union;
- WE WILL NOT, in any like manner, interfere with, restrain and coerce employees in the exercise of their rights guaranteed under the Law;
- WE WILL provide the Union with:
  - Copies of CBA's/MOA's in effect from FY11 to the present for all City bargaining units other than the Fire Department bargaining unit along with MOA's relating to all CBA's currently in effect;
  - Copies of employment agreements in effect for the Police Chief and the Fire Chief, along with copies of the City's wage plan or employment agreements in effect for City Hall employees and all other non-represented employees;
  - A listing of grade changes/increases granted to City Hall employees (represented or non-represented) since January 1, 2012;
  - The appointment date for each current employee of the Malden Police Department from FY 2012 and FY 2013.
  - The City's June 30, 2013 audited financial statements and the accompanying management letter.

\_\_\_\_\_  
City of Malden

\_\_\_\_\_  
Date

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED OR REMOVED**

This notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Department Labor Relations, Charles F. Hurley Building, 1<sup>st</sup> Floor, 19 Staniford Street, Boston, MA 02114 (Telephone: (617) 626-7132).