



## Baltimore City FOP Lodge 3

September 22, 2012

### Pension Update - Ordinance 10-306 Ruled Unconstitutional

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On 20 September 2012, The Honorable Judge Marvin Garbis of the United States District Court for the District of Maryland ruled that City Ordinance 10-306 - the pension law enacted by the Baltimore City Council and signed by the Mayor in July 2010 - is unconstitutional. Although all parties expect an appeal to the United States Court of Appeals as well as other legal maneuvering, this is a significant victory for the FOP as well as the Fire Unions.

What happened?

- o We won the trial.

- o Judge Garbis issued a 33 page decision on September 20th holding that the 2010 City pension statute replacing the variable benefit with a tiered COLA was not reasonable and necessary to serve an important public purpose. Therefore, the Judge ruled that the statute is unconstitutional.

Does Judge Garbis's decision affect the entire 2010 pension statute or just the variable benefit?

- o Yes, the Judge ruled that the substitution the City chose for the variable benefit is at the heart of the City's 2010 pension statute. Therefore, he determined that portion of the statute eliminating the variable benefit is not "severable" from the remainder of the statute.

- o Since the unconstitutional portion of the statute eliminating the variable benefit is not "severable" from the remainder, he held the entire statute must be overturned, not just the variable benefit.

Where do we go from here?

o This decision is an opinion on only one of the claims against the City. There are other claims still pending, and the Judge has scheduled a conference with counsel for the week of October 15 to address the remaining issues.

o These remaining issues include a possible appeal by the City, our other claims against the City, our claims against the Board defendants, and the precise way his decision should be implemented for people outside the class.

o Union leadership will be meeting with our lawyers before the upcoming conference to assess our next steps and determine our path forward.

Go To  
[www.fop3.org](http://www.fop3.org) for the full text (pdf) of the Decision

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