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MUNICIPAL LAW ALERT

Court of Appeals Finds a Narrow Exception to the “Triborough” Doctrine

The “Triborough” doctrine, codified in § 209-a of the Civil Service Law, provides that even after a prior collective bargaining agreement (CBA) has expired, its terms continue to govern until a new agreement is negotiated. However, the Court of Appeals recently found a narrow exception to this rule in *City of Yonkers v. Yonkers Fire Fighters*, 20 N.Y.3d 6513 (2013). The dispute in that case focused on retirement benefits for new and existing firefighters, specifically whether new firefighters, like the existing firefighters, were entitled to have the City pay all of their retirement benefits, or whether the new firefighters could be subjected to the City’s effort to have them contribute 3% of those costs. The Union argued that the Triborough doctrine applied to prohibit the City from requiring new firefighters to pay the 3% contribution. The City disagreed, relying on § 8 of Article 22 of the Retirement and Social Security Law (which provides that nothing “shall limit the eligibility of any member of an employee organization to join a special retirement plan open to him or her pursuant to a collectively negotiated agreement . . . where such agreement is in effect on the effective date of this act,”) inasmuch as the CBA at issue was not “in effect” at the time § 8 became effective. The Union sought arbitration and the City moved for a permanent stay. The Court of Appeals ruled that arbitration of the Union’s improper practice charge alleging that the City erred in failing to apply the parties’ CBA and noncontributory pension benefits provision to firefighters hired after the CBA had expired was barred, as an impermissible negotiation of pension benefits. The Court found that, as applied to this case, the old agreement was not “in effect” at the time § 8 of Article 22 of the Retirement and Social Security Law became effective.

If you have any questions or would like more information on the issues discussed in this communication, please contact any of the following Hancock Estabrook attorneys:

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