

In the Matter of the Calculation of Final Compensation of:

Bruce Malkenhorst, Sr., Respondent,
and
City of Vernon, Respondent

OAH Case No. 2013080917

CalPERS Case No. 2012-0671

EXHIBIT YY (2 PAGES)



Actuarial & Employer Services Division
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September 23, 2005

ER#209/AH
Reply:115

Marla Aspinwall
Attorney at Law
Loeb & Loeb LLP
10100 Santa Monica Blvd, Suite 2200
Los Angeles, CA 90067

Re: NOTICE OF APPEAL- City of Vernon- B. Malkenhorst

Dear Ms. Aspinwall:

Thank you for the documentation you provided with your letter dated August 11, 2005, in response to CalPERS denial of longevity for Mr. Bruce Malkenhorst, an employee of the City of Vernon (the City).

We do not find that the documentation submitted complete and have the following questions for your response and requests for additional documentation. According to the City's resolution #8473 section 24(f) City Administrator/City Clerk, there are several benefits outlined in this section for Mr. Malkenhorst.

1. In section (f)(4), ICMA Retirement, is this amount of deferred compensation included in salary?
2. In section (f)(5), IRA Account, is this amount of \$2,000 or maximum part of salary?
3. In section (f)(12), Supplemental Executive Retirement Plan, is the \$60,000 annual payments and any other appropriate amounts part of salary?

Also, according to a letter sent to Gloria Orosco, at the City, dated June 2, 1995, as well as the job duties statement you provided, Mr. Malkenhorst served as City Administrator/City Clerk, City Treasurer, Director of Finance and Personnel, Purchasing Agent, Executive Director of Light and Power, and Executive Director of the Redevelopment Agency. All of these other positions, with exception of City Administrator, are considered overtime and not reportable to CalPERS for retirement purposes. According to the 2004/2005 salary schedule, Mr. Malkenhorst's salary is 222% or

Ms. Aspinwall

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\$24,316 higher than the Director of Environmental Health, which appears to be the next highest position. Why is that? Has the City hired a replacement for Mr. Malkenhorst's position? If so, what is the salary the City is paying?

In your letter, you stated the longevity program approved by the City includes city employees and city council members in the same benefit class. Mr. Malkenhorst is not in the same class as the council members because Government Code 20322 of the CalPERS law states that Elected Officials are optional and excluded from membership and a separate group and cannot be inclusive of employee management benefits.

We would appreciate receiving your written response and any supporting documentation by November 3, 2005. If you have any questions, please contact me at (916) 795-2204.

Sincerely,



Alinda Heringer, RPS II
Compensation Review Unit
Actuarial and Employer Services Branch

Attachment: