

**FIRE AND POLICE EMPLOYEES' RETIREMENT SYSTEM (F&P)
CITY OF BALTIMORE**

JUDGE RULES RETIREE INCREASE UNCONSTITUTIONAL

On September 20, 2012, Judge Marvin Garbis, of the Federal District Court of Maryland, ruled in the case of Robert F. Cherry, Jr., et al vs. Mayor and City Council of Baltimore City, et al. that the retiree benefit increase in Ordinance 10-306 is unconstitutional.

Ordinance 10-306, which was passed in June 2010 replaced the variable retiree benefit increase with a fixed increase. The fixed increase is:

- No increase to retiree and beneficiaries younger than age 55;
- A 1% increase to eligible retirees and beneficiaries age 55 and older, but younger than age 65; and
- A 2% increase to eligible retirees and beneficiaries age 65 and older, and also to members retired with a 100% line-of-duty disability, regardless of age, and to their beneficiaries.
- A retired member or beneficiary must have received F&P retirement benefits for 2 or more years as of the June 30 increase eligibility determination date in order to be eligible for any increase.

Judge Garbis said that, in order to be constitutional, the change in the retiree benefit increase had to satisfy an important public purpose and had to be “reasonable and necessary.”

Judge Garbis found that the elimination of the variable benefit increase satisfied the important public purpose of restoring actuarial soundness and sustainability to the F&P. He also found, however, that the structure of the fixed increase was not “reasonable and necessary” because it adversely affects some retirees (e.g., those younger than age 65) more than others.

As of the date this article was written, the City of Baltimore has not yet decided whether it will appeal the decision.