

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

In the Matter of the Arbitration Between:

TOWN OF BOURNE

-and-

MASSACHUSETTS LABORERS' DISTRICT  
COUNCIL, LOCAL 1249

ARB-24-10591

Arbitrator:

Timothy Hatfield, Esq.

Appearances:

Christopher Brown, Esq. - Representing Town of Bourne  
Andrew Bettinelli, Esq.

Sal Romano -Representing Massachusetts Laborers' District  
Council, Local 1249

The parties received a full opportunity to present testimony, exhibits and arguments, and to examine and cross-examine witnesses at a hearing. I have considered the issues, and, having studied and weighed the evidence presented, conclude as follows:

**AWARD**

The Town had just cause to terminate the grievant and the grievance is denied.



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Timothy Hatfield, Esq.  
Arbitrator  
December 18, 2025

### **INTRODUCTION**

On April 18, 2024, Massachusetts Laborers' District Council, Local 1249 (Union) filed a unilateral petition for Arbitration. Under the provisions of M.G.L. Chapter 23, Section 9P, the Department appointed Timothy Hatfield, Esq. to act as a single neutral arbitrator with the full power of the Department. The undersigned Arbitrator conducted a virtual hearing via Web-Ex on August 8, 2024, September 12, 2024, and November 1, 2024.

The parties filed briefs on January 22, 2025.

### **THE ISSUE**

The parties were unable to agree on a stipulated issue. The proposed issue before the arbitrator is:

#### **The Town proposed:**

Did the Town have just cause for the discipline taken against the grievant?

If not, what shall be the remedy?

#### **The Union proposed:**

Did the Town establish just cause for discharge by failing to prove by a preponderance of evidence that the grievant was negligent by missing the statutory deadline to file?

#### **Issue:**

As the parties were unable to agree on a stipulated issue, I find the appropriate issues to be:

Did the Town have just cause to terminate the grievant? If not, what shall be the remedy?

**RELEVANT CONTRACT LANGUAGE**

The parties' Collective Bargaining Agreement (Agreement) contains the following pertinent provisions:

**ARTICLE II - MANAGEMENT RIGHTS**

Section 1. Except to the extent that there is contained in this agreement an express and specific provision to the contrary, all of the authority, power, rights, jurisdiction and responsibility of the Town are retained by and reserved exclusively to the Employer; including, but not limited to, the rights: To manage the affairs of the Town and maintain and improve the efficiency of its operation; to determine the methods, means, processes and personnel by which operations are scheduled and hours of work and the assignment of employees to work; to establish new job classifications and job duties and functions, and to change, reassign, abolish, combine and divide existing job classifications for all jobs; to require from each employee the efficient utilization of his/her services; to hire, promote, transfer, assign, and retain employees, discipline, suspend, demote, and discharge employees for cause; to relieve employees from duty because of lack of work or other legitimate reasons.

Section 2. The Town may implement and enforce reasonable rules or regulations governing the conduct of employees and for the efficient operation of Town departments, and may amend, modify or eliminate such rules or regulations at any time so long as such rules or regulations are not in conflict with any specific provision of this Agreement. Any current rule or regulation not in conflict with any specific provision of this Agreement shall remain in full force and effect. Prior to the implementation of any new or revised work rule, the Town will post a copy and will provide a copy of the rule to the Union.

Section 3. The Town Administrator is the chief executive officer of the Town with specific powers conferred upon it and duties imposed upon it by Federal, State and Local statutes, bylaws, and rules and regulations. Nothing in this Agreement shall be deemed to diminish such powers or derogate from the duties imposed by law on the Board.

**ARTICLE XXI - GRIEVANCE AND ARBITRATION PROCEDURE  
(In Part)**

Section 1. Any grievance or dispute which may arise between the parties as to the application, meaning or interpretation of a specific

provision of this Agreement, shall be settled in the following manner:

...

Step 4. Arbitration. If the grievance is still unsettled, the Union and only the Union may submit the matter to Arbitration within ten (10) days after receipt of the written answer from the Town Administrator or within thirty (30) days after the answer of the Town Administrator is due, whichever occurs first. Submission to arbitration shall be accomplished by written notice to the Town, requesting arbitration. The arbitration proceeding shall be conducted by an arbitrator to be selected by the Town and the Union within seven (7) days after notice has been given. If the parties fail to select an arbitrator, the American Arbitration Association or the Division of Labor Relations shall be requested by either or both parties to provide a panel of arbitrators, from which to make a selection. The cost of the arbitration and arbitration filing fee shall be paid equally by the Town and the Union and each party shall pay its own cost for preparing and presenting its case and for any stenographic record requested. ...

Section 3. The arbitrator shall have no power to alter, amend, modify, add to or subtract from this Agreement and shall be bound to render his award in accordance with the express provisions and intent of the parties under this Agreement. ...

### **RELEVANT STATUTE**

#### **M.G.L. 111, Chapter 31E**

Any health officer or board of health for any city, town or district, whose authority includes the issuance of permits for construction, maintenance or alteration of individual sewage disposal systems for residential buildings of not more than four dwelling units, shall act upon a completed application for such permit to construct, maintain, or alter such system within forty-five days from the date upon which such completed application is filed with said health officer or board of health. If a determination on a completed application is not rendered within forty-five days by the appropriate health officer or board of health, then said permit shall be deemed to have been granted.

For the purpose of this section, a completed application shall include, but not be limited to, information satisfactory to any local board of health regarding the number of deep observation holes, all percolation test results and a plan which meets the requirements of the state sanitary code and any local health regulation. Such application shall be considered filed on the date upon which a

completed application is presented by the person who is seeking the permit, to the health officer, board of health or agent thereof.

For the purpose of this section, 'action on a completed application' shall mean approval of said application and issuance of the permit to construct, maintain, or alter, or disapproval of said application with a written statement of the reasons for such disapproval. The written statement of reasons, in the case of disapproval shall be sent to the applicant by first class mail, postage prepaid and shall include the information necessary in order to ascertain why the application or the proposed subsurface sewage disposal system, or both fail to comply with local or state code requirements.

Nothing contained in this section shall be deemed to exempt the applicant from the regulations promulgated under the provisions of section thirteen of chapter twenty-one A.

### **FACTS**

The Town of Bourne (Town or Employer) and the Union are parties to a collective bargaining agreement that was in effect at all relevant times to this arbitration. Since December 2013, Terri Guarino (Guarino / grievant) was employed by the Town, first as a Health Inspector before being promoted to Health Agent on July 1, 2015.

Marlene McCollem (McCollem / Town Administrator) has been the Town Administrator since February 2022. William Doherty (Doherty) is the Chair of the Town's Board of Health (Board / Board of Health). Bryan Bertram (Bertram) is Town Counsel.

As part of the hiring or promotional process, employees are provided with a copy of the Town Employee Handbook (Handbook) and a copy of their job description. Guarino received, and was aware of, the Handbook.

The Health Agent is responsible for drafting and issuing the Boards' decisions. In 2022, McCollem and Guarino discussed the risk of constructive

approval. A constructive approval occurs when a completed application is approved because the Board failed to act on the application within 45 days.

The property in dispute is located at 176 Scraggy Neck Road (Scraggy Neck Road / Scraggy Road). On November 8, 2023, the owners of the Scraggy Neck Road property filed an application for a variance from the Town's septic regulations. The application was deemed complete upon receipt and scheduled for a hearing before the Board on November 15, 2023. Under M.G.L. c. 111, § 31, the Town was required to act on the application within 45 days, meaning the statutory period expired on December 23, 2023. There was no evidence presented of any prior constructive approvals in the Town.

Prior to the scheduled meeting, the grievant contacted Bracken Engineering (Bracken), the consultant engineer for the applicant, to inform them that there could be a possible quorum issue for a different application due to recusals of Board members based on a conflict of interest for that application. The anticipated recusals were not an issue for the Scraggy Neck application. On November 15, 2023, Bracken filed a written request for a continuance of the Scraggy Neck application, citing that "there will not be a full Board at tonight's meeting." This rationale was incorrect as the issue of recusals was for a different variance application and not the Scraggy Neck Road application.

The Board held its scheduled meeting on November 15, 2023, and the Scraggy Neck Road application was the fourth agenda item discussed. Neither the applicant, nor any representative from Bracken, was present at the meeting. During the meeting, Doherty suggested putting the application over to a future

meeting. The Board quickly decided that it could not do so without triggering a constructive approval. A motion was then made to deny the application due to the failure of the applicant to appear. The motion was unanimously approved. No further discussion was held on the matter. It was the grievant's responsibility to draft and issue the Board's decision.

On November 16, 2023, the grievant drafted a letter on the Board's letterhead stating that the Board received a completed application for a variance request for 176 Scraggy Neck Road. The letter went on to state that the Board had denied the application. The grievant never sent out the letter.

On November 22, 2023, an attorney representing the owners of 176 Scraggy Neck Road sent a letter to the Board of Health, the grievant, the Select Board, and the Town Administrator regarding the Board's November 15, 2023, denial of the application for a variance. The letter states that the owners intended to appeal the Board's decision as arbitrary and capricious. There was no confusion from the applicant that the Board had denied the application for a variance.

Shortly after receiving the letter, the grievant had conversations with Bertram and Doherty about scheduling an executive session to discuss the letter and the threat of litigation. Bertram testified at the arbitration that the grievant was not confused about the Board's action and did not question whether there was a denial. Doherty decided not to call an executive session until a lawsuit was filed. The grievant never told Bertram, Doherty or the Town Administrator that she had not issued the denial letter and she ultimately failed to issue the letter before the statutory period expired on December 23, 2023.

On January 22, 2024, seventy-five days after the Scraggy Neck Road application was filed, an attorney representing the owners sent a letter to the grievant and the Board of Health informing the Board that it was their position that the variance application had been constructively granted due to the Board's failure to act with the statutory period.

In response to the attorney's letter, Doherty reached out to the grievant about her failure to notify the parties of the Board's action. The grievant acknowledged that she had drafted the Board's decision letter but failed to issue it, claiming that she was directed to wait until after the holidays. Shortly after receiving the attorney's letter, the grievant went out on medical leave. The receipt of the attorney's letter was the first notice that the Town Administrator, Doherty, and Bertram had that the grievant never issued the decision letter.

On February 20, 2024, upon the grievant's return from medical leave, the Town Administrator gave the grievant a Loudermill letter for the purpose of considering whether to impose discipline up to and including termination for negligence or willful incompetence by failing to issue the Board's decision denying the variance.

On February 27, 2024, a hearing was held. The Town Administrator asked the grievant why the letter was never sent, and the grievant responded that she never sent the letter because in her view, the Board's hearing on the matter was not an appropriately conducted public hearing. As a result of the grievant's decision to not send the letter, two lawsuits were filed against the Town by the applicants and the abutters.



On March 12, 2024, the Town terminated the grievant from her position after the Town Administrator found her to be derelict in her duties and willfully incompetent. The Union filed a grievance over the termination that was denied at each step of the grievance procedure resulting in the instant arbitration.

### **POSITIONS OF THE PARTIES**

#### **THE EMPLOYER**

Well established principles of just cause fully support the Town's termination of the grievant. Historically, arbitrators have considered seven factors in determining if an employer had just cause to support its actions: (1) whether the employee had forewarning of the consequences of their conduct; (2) whether the employer's rule was reasonably related to orderly, efficient and safe operations; (3) whether the employer made a reasonable effort to discover if the employee did in fact violate the rule; (4) whether the employer's investigation fair and objective; (5) whether substantial evidence or proof sustained the findings of the employer; (6) whether the employer applied its rules, orders and penalties evenhandedly and without discrimination; and, (7) whether the degree of discipline administered by the employer was reasonably related to the seriousness of the employee's offense, and the past record of the employee. The evidence presented by the Town shows that by a preponderance of the evidence, the grievant violated both the standards of conduct provided in the Employee Handbook, and the expectations set forth in her job description thus there was just cause for her termination.

1. Whether the employee had forewarning of the consequences of their conduct

The Employee Handbook and a job description are given to every employee at the time of hiring or promotion. The grievant did not offer testimony to dispute that she received those documents, or that she was not aware of her job responsibilities. A duty to act honestly should be obvious to any professional, but nevertheless, this expectation is laid out in the Employee Handbook, alongside a warning that neglect of duty, incompetence, insubordination and immoral conduct may be grounds for discipline up to and including discharge. The job description makes it clear that among the “Essential Duties” of the position, the grievant was “responsible for drafting and issuance of the Board’s decisions.” Further, the Town Administrator testified that she and the grievant had previously discussed the risk of constructive approval for septic variance applications that were not acted on in a timely manner. Given the serious consequences that could result from the violation of these duties, there is no reasonable argument that the grievant can claim that she did not understand the potential consequences of her actions.

2. Whether the employer’s rule was reasonably related to orderly, efficient and safe operations

There is no reasonable basis to dispute that the Town’s expectation that employees “act honestly, conscientiously, reasonably and in good faith at all times having regard to their responsibilities, the interests of the Town and the welfare of its residents” is related to the orderly and efficient operations of the workplace. The grievant occupied a position of public trust, and her ability to do her job required her to maintain the trust of her supervisor, the Town Administrator, the

elected board she was hired to support, and the public. The rules at issue are essential for the discharge of duties of the Health Agent.

3. Whether the employer made a reasonable effort to discover if the employee violated the rule and whether the employer's investigation was fair and objective

The Town Administrator did not discover that the grievant failed to issue a letter of the Board's decision for the variance application until after the grievant was out on medical leave. With the grievant out on leave, the Town Administrator had to determine on her own whether a letter had been sent. Her review of the documentary evidence showed that the letter had not been sent out, and the grievant admitted that it had not been sent out in her January 23, 2024, email to the Board Chair. The issue for the Town Administrator's investigation was not whether the grievant failed to discharge this essential duty of her job, but why she failed to do so. The grievant was charged with negligence or willful incompetence which implies the issue was the grievant's state of mind and shows that the Town Administrator had not predetermined the outcome of the investigation. At the Loudermill hearing, the grievant stated that the letter was not sent because it was not an appropriately conducted public hearing. It was that sentiment that led the Town Administrator to conclude that the grievant's decision not to send the letter was willful.

4. Whether substantial evidence or proof sustained the findings of the employer

It is undisputed that the grievant failed to issue a letter of the Board's decision. The Town presented substantial documentary and testimonial evidence that support the finding that the grievant was derelict in her duty and willfully incompetent. For the first time at the arbitration hearing, the grievant offered

alternate explanations that she failed to send the letter either because: 1) she was confused about the Board's actions; or 2) she had determined that the application was incomplete; or 3) Town Counsel was aware that she had not sent the letter, but did not tell her to send the letter. Each of these explanations defies credibility and differs from what she said at the Loudermill hearing. All three explanations were explored in the arbitration, and all were rebutted through documentary evidence, cross-examination, or rebuttal testimony.

The grievant claimed that she was confused about the substance of the Board's vote because she was unsure as to the meaning of the motion. She claimed that she thought the motion was to deny the continuance request. First, such an interpretation is illogical on its face; if the request to continue the hearing was denied, then the hearing would instead proceed as scheduled. This is not what happened. Further, when examined in the full context of the discussion that occurred before and after the motion, it is clear the Board intended to deny the application. Finally, the letter sent by the applicant's attorney should have made it clear to her that both the applicant and the Board were proceeding as if the application had been denied. If she really believed that the Board's action was unclear, she had ample opportunity to speak up to seek clarification or offer correction.

On November 8<sup>th</sup>, the application was deemed complete and scheduled for a hearing before the Board. In her arbitration testimony, however, the grievant claimed that at some unspecified later time, she changed her opinion as to its completeness. At the hearing on November 15<sup>th</sup>, or at any point thereafter, she

failed to speak up to notify or otherwise inform the Board that she believed the application to be incomplete. She did not email the applicant to inform them that their application was incomplete. She claims that she told the applicant's consulting engineer that the application was incomplete at an in-person meeting. However, immediately after the meeting in which she claimed to have done so, she drafted a letter referring to the application as deemed complete.

Finally, the grievant claimed that Town Counsel was aware that she had not sent the letter. This was disputed by the Town Counsel, who testified that the first time he was made aware that the decision letter was not sent out was when he received the January 22, 2024 letter. According to his testimony, that Union Counsel chose not to cross-examine, the grievant never raised the issue of whether to send a decision letter with him, and he never told her not to send it.

There is substantial evidence offered by the Town to prove by a preponderance of the evidence that the grievant was derelict in her duty and willfully incompetent by failing to send a letter of the Board's decision.

5. Whether the employer applied its rules, orders and penalties evenhandedly and without discrimination

The Town Administrator identified no equivalent or similar past discipline of other bargaining unit members to use for comparison. The Town Administrator investigated to determine whether a decision letter had been sent. The grievant received notice and an opportunity to be heard. At a lengthy hearing, the grievant was presented with evidence and provided an opportunity to respond. The Town Administrator followed the process in the collective bargaining agreement. The

Union offered no evidence to suggest that the grievant was singled out or treated differently than any other employee.

6. Whether the degree of discipline administered by the employer was reasonably related to the seriousness of the employee's offense, and the past record of the employee

The grievant had prior sustained discipline stemming from unrelated events related to that same meeting. She received a two-day suspension for a charge that related to her honesty.

In this instance, the level of discipline was completely appropriate. As a result of her actions, the grievant usurped the authority of an elected board, and the consequence of the constructive approval that flowed from her decision not to send the letter was a reversal of the Board's decision. It would be impossible for the grievant to repair the trust that she lost from the Board, the Town Administrator, and the public. As a result of her actions, the Board lost the ability to regulate construction of the septic system at 176 Scraggy Neck Road, and the Town was forced to defend two lawsuits: one from the aggrieved abutters, and one from the applicant seeking to enforce the constructive grant of approval. It is beyond reasonable dispute that the grievant occupied a position in the Town in which trust is a crucial element. Given her role and the expectations attendant to that role, her decision not to send the letter, which exposed the Town to severe consequences justified the decision to terminate her.

Conclusion

The Town presented evidence on each of the above-referenced factors to establish that there was just cause to terminate the grievant's employment based

on her conduct. Accordingly, the Arbitrator should find for the Town and deny the grievance.

## **THE UNION**

The grievant has been employed by the Town as a Health Agent since 2013. Her duties and responsibilities concern enforcement and administering state and local public health codes as well as overseeing the daily operations of the department. She performs field inspections to ensure compliance with applicable laws, rules and regulations while maintaining records, preparing reports and supervising staff. Her job description required her to utilize her extensive judgment and ingenuity to interpret and apply regulations pertinent to public health administration and enforcement. This dispute concerns her termination allegedly for: 1) dereliction of duty; 2) willful incompetence; and 3) exposing the Board of Health and the Town to significant negative repercussions.

The Town Administrator claims the above behavior resulted from a Board of Health vote denying continuance of a Scraggy Road variance. There is, however, no evidence, only confusion, on what the Board of Health voted on. The undeniable evidence indicates the Board of Health denied the continuance of the variance because the request was in writing, and neither the applicant nor their representatives were present. The heart of the dispute rests exclusively on the Town Administrator's erroneous understanding of the facts, unsupported by any legal opinion from Town Counsel claiming the grievant intentionally violated the so called 45-day rule. The Town Administrator claims the grievant intentionally and

willfully let the deadline pass and knowingly chose not to be faithful to a Board of Health vote. This is a preposterous conclusion, and it's simply baseless.

The termination letter is an example of what poor communication can do to valuable employees. It exemplifies a poorly conducted investigation, the conducting of a Loudermill hearing without any record of questions asked or answers given by witnesses. It is unclear what evidence supports the claim of dereliction of duty.

M.G.L. 111, Section 31E outlines the requirement that if a determination on a completed application is not rendered within 45 days by the appropriate health officer or Board of Health, the permit shall be deemed to have been granted. An examination of the record illustrates a total absence of proof that the Saggy Neck variance was complete as defined in M.G.L. 111, Section 31E. Logic and the rules of just cause require as a predicate the existence of a completed application. Also missing is any evidence of intentional conduct by the grievant. There is no dispute that she didn't send out the letter, but she testified to her reasons for not doing so, and it is obvious to most people in this incident, except for the Town Administrator, that the 45-day rule did not apply.

In this dispute, one assumption builds upon another assumption. This reduces the Town's conclusions to pure speculation. Dereliction of duty and willful incompetence must be supported by evidence of wanton or willful misconduct. This case is filled with infirmities, the first and foremost is the lack of just cause required by the collective bargaining agreement. There is a total lack of proof of wrongdoing, which has led to the most extreme form of discipline.



As previously indicated, there are many reasons to sustain the grievance, including the Town's failure to prove the grievant acted willfully, intentionally, or was purposely incompetent by knowingly and deliberately letting a deadline pass thereby allowing for the constructive granting of a variance. The Town failed to utilize a form of discipline in line with the facts and circumstances and failed to provide evidence of any rule or regulation which formed the basis for discipline.

Before punishment can be considered reasonable and appropriate, there must be proof of wrongdoing by a preponderance of evidence. Stated another way, there must be proof of wrongdoing before just cause can exist. In this matter, the Town has the burden to prove by a preponderance of the evidence that the grievant is guilty of wrongdoing. It must prove that she knew her alleged conduct was prohibited, and this did not occur. In addition, the Town must demonstrate the level of discipline imposed is reasonably related to the proven offense. Without proof by a preponderance of evidence of credible evidence, the imposed discipline cannot stand.

### Conclusion

The grievant was terminated for making a business decision. This is the basis for terminating the grievant. The actions of the Town contradict and violate the provisions of the collective bargaining agreement. The Town has failed to provide reasonable, acceptable, or suitable arguments to support its unjust decision to terminate the grievant. Its unilateral, unbridled, and unjust judgment must be rejected. This industrial tragedy can only be remedied by sustaining the grievance and making the grievant whole for all of her losses.

**OPINION**

The issue before me is:

Did the Town have just cause to terminate the grievant? If not, what shall be the remedy?

For all the reasons stated below, the Town did have just cause to terminate the grievant and the grievance is denied.

There is no dispute that the grievant drafted a letter outlining the Board's decision to deny the variance application submitted for Scraggy Neck Road. There is also no dispute that the grievant never issued the decision to the applicants or their representatives. Finally, there is no dispute that one of the essential duties of the grievant's position was drafting and issuing the Board's decisions.

The grievant defended her failure to issue the decision by offering a variety of reasons that changed depending on the forum in which she was being questioned. Ultimately none of her excuses were credible or exonerated her failure to perform an essential function of her job.

When first confronted about this issue by the Board's Chairman, after receipt of the January 22, 2023 letter from the applicant's counsel, the grievant acknowledged that she had drafted the letter but failed to issue it, claiming that she was directed to wait until after the holidays. Left unstated is who allegedly directed her to wait, and this explanation never resurfaced again at any point in the proceedings.

At the Loudermill hearing, the grievant stated that she did not send the decision letter because, in her view, the Board's hearing on the matter was not an

appropriately conducted public hearing. This rationale was also abandoned prior to the arbitration hearing.

During the arbitration hearing, the grievant offered three new and differing explanations for why she failed to send the decision letter, namely: 1) she was confused about the Board's actions; 2) she had determined that the application was incomplete; or 3) Town Counsel was aware that she had not sent the letter but did not tell her to issue it. Further testimony at the hearing, however, clearly shows why these explanations lack credibility.

There should have been no confusion about the actions taken by the Board concerning the Scraggy Neck Road application. The application was denied by the Board. For the grievant's testimony - that only the motion for a continuance was denied - to be true, further action by the Board would have been necessary. And if the Board had only denied the continuance, as the grievant suggested, the Board would have then moved forward on deciding the issue on the merits of the application. This did not happen as there was no further discussion by the Board about the Scraggy Neck Road variance after it denied the application.

Additionally, if the grievant was truly confused by the Board's actions, she told no one of that belief, and her receipt of the November 22, 2023, letter, sent by the applicant's attorney, should have made it clear to her that both the applicant and the Board were proceeding as if the application had been denied. Thus, the grievant's claim of confusion is not credible.

The grievant further stated that the status of the application's completeness was in question. On November 8<sup>th</sup>, the application was deemed complete and

scheduled for a hearing before the Board. The grievant testified that at some later unspecified time, she changed her opinion as to its completeness. Yet the testimony shows that at no point did she notify or otherwise inform the Board that she believed the application to be incomplete. She also never emailed the applicant to inform them that their application was incomplete. She alleges that she told the applicant's consulting engineer that the application was incomplete at an in-person meeting on the same day she drafted a letter referring to the application as complete and denied by the Board. Thus, I find the grievant's claim that the completeness of the application was the reason that she did not issue the decision letter is also not credible.

Finally, the grievant claims that Town Counsel was aware that she had not sent the letter and did not direct her to issue it. This claim was directly contradicted by the testimony of the Town Counsel. Town Counsel testified that the first time he was made aware that the decision letter was not sent out was when he received the January 22, 2024, letter from the applicant's counsel stating that they believed the application had been constructively approved by the Board's failure to issue a decision. This un rebutted testimony directly contradicts and undermines the grievant's testimony.

The weight of the evidence presented supports the Town's decision to terminate the grievant. The grievant's failure to issue the Board's decision, an essential function of her position, opened the Town to multiple lawsuits from the applicant and the abutters. The grievant's failure to take responsibility for her actions, combined with her continually shifting explanations for her inaction caused

the Board and the Town Administrator to lose trust in her willingness and ability to perform her required duties. This lack of trust in the grievant made her continued employment for the Town untenable.

For all the reasons stated above, the Town had just cause to terminate the grievant.

**AWARD**

The Town had just cause to terminate the grievant and the grievance is denied.

A handwritten signature in blue ink, appearing to read "Timothy Hatfield".

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Timothy Hatfield, Esq.  
Arbitrator  
December 18, 2025