

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 12-02357

TOWN OF BILLERICA

vs.

CIVIL SERVICE COMMISSION & another¹

ORDER ON PLAINTIFF'S
MOTION FOR JUDGMENT ON THE PLEADINGS

The plaintiff, the Town of Billerica (the "Town"), brings this action pursuant to G. L. c. 30A, § 14, against the Civil Service Commission (the "Commission") and the Human Resources Division (the "HRD") (collectively, the "defendants"), appealing a summary decision the Commission issued, which upheld the HRD's revocation of the eligible list of candidates for promotion to the position of sergeant in the Town's Police Department.² This matter is now before the court on the Town's Motion for Judgment on the Pleadings pursuant to Mass. R. Civ. P. 12(c).

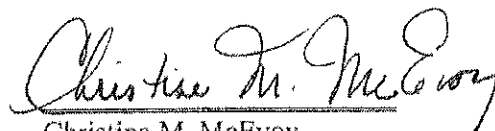
As grounds for entering judgment in its favor, the Town argues that "the Commission committed multiple errors of fact and law, and ultimately issued a decision without a hearing, thereby denying [the Town] a fair opportunity to present facts and evidence, or to otherwise challenge the unsubstantiated facts and assertions of [the HRD]." The defendants oppose, contending that once an eligibility list exceeds its statutory two-year window, the HRD has the authority to revoke the list, even if a new eligibility list has not been established, if "the effective maintenance of the merit system so requires such revocation." See G. L. c. 31, § 25. After a hearing

¹ Human Resources Division

² The list was established on May 15, 2009, as a result of an examination given in October 2008.

and review of all the materials submitted, the court, in its discretion, hereby **ORDERS** this matter **REMANDED** to the Commission for an evidentiary hearing to allow the Town to present facts and evidence relative to the issue of the revocation of the eligibility list; on whether the HRD's revocation of the list was pursuant to its policy of revoking all eligibility lists three years after the date of examination, even if no new eligibility list exists; whether it was a "long standing and uniformly enforced" policy; whether the policy was consistent with "the effective maintenance of the merit system," for reconsideration of its revocation of the list; and any further appropriate action.

SO ORDERED.

A handwritten signature in cursive script that reads "Christine M. McEvoy". The signature is written in black ink and is positioned above the printed name and title.

Christine M. McEvoy
Justice of the Superior Court

DATED: May 13, 2013