

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**

100 Cambridge Street – Suite 200

Boston, MA 02114

617-979-1900

**TIMOTHY J. DAVIS,**

*Appellant*

v.

**CITY OF BOSTON,**

*Respondent*

Docket number:

E-24-096

Appearance for Appellant:

Timothy Davis

*Pro Se*

Appearance for Respondent:

Tanya E. Dennis, Esq.

Deputy Director, Office of Labor Relations

City of Boston -Boston City Hall – Room 642

Boston, MA 02201

Commissioner:

Paul M. Stein

**SUMMARY OF DECISION**

The Commission dismissed the appeal of a non-selected candidate for a provisional appointment with the City of Boston Transportation Department as the City’s appointment process complied with the civil service law; the selected candidate was qualified for the position; and the non-selected candidate did not possess the minimum supervisory experience required for appointment, thus making it impossible for him to be an aggrieved person.

**DECISION ON RESPONDENT’S MOTION FOR SUMMARY DECISION**

On June 26, 2024, the Appellant, Timothy J. Davis, a Senior Traffic Maintenance Person employed by the City of Boston (Boston), appealed to the Civil Service Commission (Commission), pursuant to G.L. c. 31, § 2(b),<sup>1</sup> from his non-selection for appointment to the position of Traffic Sign Supervisor in the “Sign Shop” of the Traffic Division of the Boston Transportation Department (BTD). The Commission held a remote pre-hearing conference on July

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<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

30, 2024. On August 30, 2024, Boston filed a Motion to Dismiss the appeal on the grounds that the position was filled by a provisional appointment of a qualified candidate in compliance with civil service law and rules. On September 19, 2024, the Appellant filed an Opposition. After receiving further information from Boston, on October 21, 2024, the Commission (Bowman, Chair) denied the Motion to Dismiss on the grounds that:

[T]here is a factual dispute as to whether the selected candidate, at the time of the provisional appointment, possessed the minimum entrance qualifications for the position, which, as stated in the posting, includes: “three (3) years experience in the fabrication and installation of public safety, regulatory and street name signs, **two (2) years of which must have been in a supervisory capacity.**” (emphases added)

I conducted a full evidentiary hearing via remote videoconference on January 15, 2025.<sup>2</sup> Pursuant to a Procedural Order dated February 3, 2025, Boston submitted, at my request, additional documentation on February 19, 2025 and responded to interrogatories from the Commission on March 31, 2025. The parties filed proposed decisions on May 15, 2025. For the reasons stated below, the Appellant’s appeal is denied.

## **FINDINGS OF FACT**

The Commission received 17 exhibits into evidence (*App.Exhs.1 through App.Exh.5; Resp.Exhs.1 through Resp.Exh.12*). Based on the exhibits, Boston’s Answers to the Commission’s Interrogatories (*Ans.Int.1 through Ans.Int.7*), and the testimony of these witnesses:

*Called by Boston:*

- Michael Devine, Traffic Sign Supervisor, BTD
- Nicholas Gove, Commissioner, BTD

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<sup>2</sup>The hearing was audio/video recorded and a link to the recording was provided to the parties. If there is a judicial appeal of the Commission’s decision in this matter, the plaintiff in the judicial appeal shall supply the court with a transcript of this hearing to the extent that they challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion. In such cases, the Commission’s recordings shall be used to create the written transcript.

*Called by Appellant:*

- Timothy J. Davis (Appellant)

and taking administrative notice of all matters filed in this appeal, pertinent law and reasonable inferences from the credible evidence, I make the following findings of fact:

*The Appellant*

1. The Appellant, Timothy J. Davis, is currently employed by the City of Boston (Boston) as a Senior Traffic Maintenance/Sign Fabricator in the Sign Shop of the Traffic Division within the Boston Transportation Department (BTD). (*Resp.Exhs.4 & 6; Testimony of Appellant*)

2. The Appellant currently works full-time in the Sign Shop, designing and fabricating permanent and temporary traffic signs for installation throughout Boston. His primary job duties currently include operating computerized state-of-the-art commercial sign-making equipment, squeeze rollers, and other computerized and mechanical equipment in the Sign Shop, as well as recording and storing the inventory of completed signs. (*Resp.Exh.4 & 6; Testimony of Appellant & Devine*)

3. The Appellant began his employment with Boston in 1996 as a Senior Traffic Maintenance Person in the BTD Sign Shop, the entry level Sign Shop position. In this position, the Appellant worked primarily in the field. His primary duties of a Senior Traffic Maintenance Person involved the erection and installation of signs, poles and traffic control devices as well as sign installation inventory control, loading and unloading materials, and cleaning and maintaining the Traffic Division vehicles. The Appellant, as did all Senior Traffic Maintenance Persons, also learned how to operate the printing and cutting machines as well as other sign-making equipment in the Sign Shop. (*Resp.Exh.4 & 6; Ans.Int.3; Testimony of Devine*)

4. In his work as a Senior Traffic Maintenance Person, the Appellant sometimes acted as a group leader in the installation of signs. As a Sign Fabricator, the Appellant provided occasional

functional training and instruction of the Sign Painter and other Sign Shop personnel. The Appellant has never had direct reports. (*Resp.Exh.4; Testimony of Appellant, Devine & Gove*)<sup>3</sup>

5. The Appellant's prior employment included ten years as a union roofing mechanic. During this time, he received training in supervision but did not hold a supervisory position. (*Resp.Exh.4; Testimony of Appellant*)

#### *The BTD/Sign Shop Structure*

6. At all times relevant to this appeal, the Sign Shop was supervised by Michael Devine, who holds the position of Traffic Sign Supervisor, reporting to the BTD Deputy Chief for Transportation and BTD Commissioner Nicholas Gove. (*Resp.Exhs.11 & 12; Testimony of Devine & Gove*)

7. As of March 2024, Mr. Devine exercised direct supervisory authority over all Sign Shop personnel. The Sign Shop had one Assistant Traffic Sign Supervisor (Carmine D'Amelio) who exercised a direct functional supervisory relationship over the Appellant as well as all other Sign Shop personnel. The Assistant Traffic Sign Supervisor was tasked to assume all responsibilities of the Traffic Sign Supervisor in the latter's absence. (*Resp.Exhs.1 & 11; Testimony of Devine*)

8. The Sign Shop field staff includes a Traffic Operations Foreperson (Anson Mancebo) who exercised direct supervision of the four to nine Senior Traffic Maintenance Persons in the field on a full-time basis. (*Resp.Exh.11; Testimony of Devine*)

#### *The 2024 Posting for Assistant Traffic Sign Supervisor*

9. On or about January 25, 2024, Boston posted an employment opportunity for a second civil service position of Assistant Traffic Sign Supervisor in the Sign Shop. No civil service eligible

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<sup>3</sup> The Appellant claimed that he "filled in" as the Assistant Sign Shop Manager for about a year after Mr. Devine was promoted from that position to Sign Shop Supervisor. He was not paid out of grade and did not report this experience on his resume or during his interview. (*Resp.Exh.4; Testimony of Appellant*)

list had been established for that position (for decades), so the job was posted as a provisional appointment pursuant to the applicable collective bargaining agreement and G.L. c. 31, § 12.

*(Resp.Exhs.1 & 10)*

10. The job posting stated:

BRIEF JOB DESCRIPTION (essential functions of the job):

Under general supervision performs work of moderate difficulty and supervises skilled and or semi-skilled employees in sign fabrication, maintenance, repair and installation. Assumes all responsibilities of the Traffic Sign Supervisor in his absence.

Responsibilities

- Responsible for the general maintenance and upkeep of the Operations Division facility.
- Monitors and controls equipment inventory systems. Evaluates subordinates work performance.
- Operates pavement marking painting equipment. Operates air compressor and associated heavy tools and equipment.
- Operates a wide range of power tools.
- Programs and directs the placement of BTM Variable Message Boards. Prepares daily work assignments for sign shop crews. Monitors and maintains an inventory of all equipment necessary to fabricate, maintain/repair and install traffic signs.
- Collects data and prepares records of work performed.
- Prepares and submits reports on the activities of the sign shop and the status of various programs and initiatives.
- Prepares the Operations Division Sign Shop annual budget.
- Monitors daily activity of field personnel.
- Performs related duties as required.
- Performs related work as required.

Minimum Entrance Qualifications

- Three (3) years experience in the fabrication and installation of public safety, regulatory and street name signs, two (2) years of which must have been in a supervisory capacity.
- Good knowledge of City of Boston geography required.
- Knowledge of and experience with M/S office products required.
- Strong computer skills required in sign fabrication software.
- Must have and maintain a Massachusetts driver's license. (must be produced)
- Ability to exercise good judgement and focus on detail as required by the job.

*(Resp.Exh.1; App.Exh.4)*

11. Six candidates were interviewed by Mr. Devine and Mr. Gove, the BTM Commissioner.

The candidates were asked the same series of questions and Mr. Devine and Mr. Gove took contemporaneous notes of the candidates' responses. The candidates were scored on a scale of 1

(unsatisfactory) to 5 (excellent for this position) on four factors: Performance/Experience; Job Knowledge required; Job Skills required; Interpersonal Skills.<sup>4</sup> The two interviewers also summarized their opinions about each candidate's "Major Assets" and "Major Shortcomings". The candidates' resumes were also considered. (*Resp.Exhs.4 through 8; Testimony of Devine & Gove*)

12. The selected candidate received the top score (18 [Devine]+19 [Gove] = 37) and the Appellant received the third highest score (14 [Devine] + 15 [Gove] = 29). (*Resp.Exh.4*)<sup>5</sup>

13. The selected candidate had worked in the Sign Shop since 2013. He began at the entry level position of Senior Traffic Maintenance Person and was promoted to Traffic Operations Foreperson in April 2021. Prior to working in the Sign Shop, the selected candidate had worked as a grave digger for the Boston Parks & Recreation Department for approximately six years. (*Resp.Exh.4*)

14. As the Traffic Operations Foreperson, the selected candidate exercised a functional supervisory relationship over the Sign Shop's Senior Maintenance Technicians in a full-time capacity. He is fully trained in the programming, operation and maintenance of Boston's digital signage (speed checks, etc.). He had some printed sign fabrication experience and, specifically, was familiar with the asset management system and City Worker software, some printing equipment, the cutting machines and the squeeze roller (used to apply printed signage to pre-cut metal sign backing). He was not fully trained on the Sign Shop's most recent state-of-the art computerized software and sign printers. (*Resp.Exhs.4 through 9 & 11; Ans.Int.3 through 7; Testimony of Appellant & Devine*)

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<sup>4</sup> The score sheets included a category for "Past Discipline" but none of the candidates were scored on that factor. (*Resp.Exhs.5 & 6*)

<sup>5</sup> The second-ranked candidate, Candidate A, scored 31 (15 [Devine] + 16 [Gove]). The three lowest ranked candidates scored 26 (Candidate B:14[Devine] + 12[Gove]; Candidate C:12[Devine] + 14 [Gove]; Candidate D:12[Devine] + 14[Gove]).

15. The Appellant demonstrated that he was fully trained on all of the Sign Shop management and sign-making software and state-of-the art sign-making equipment. He is not familiar with the computerized signage located in the field. He has not exercised regular, functional supervisory responsibility in his current job or prior employment. He did not mention that he previously “filled in” as a supervisor for Mr. Devine during his interview for the Assistant Traffic Sign Supervisor position. (*Resp.Exhs.4 through 8 & 11; Ans.Int.3 through 7; Testimony of Appellant & Devine*)

16. Except for the selected candidate, none of the other candidates met the minimum requirements stated in the job description for Assistant Traffic Sign Supervisor, either because they did not have the requisite three years of experience in sign fabrication and installation or did not have the requisite two years of supervisory experience. (*Resp.Exhs.4 through 8*)

17. On May 24, 2024, the selected candidate was appointed to the position of Assistant Traffic Sign Supervisor. (*Resp.Exhs.2 & 3*)

18. After the selected candidate’s appointment as the second Assistant Traffic Sign Supervisor, the two Assistant Traffic Sign Supervisors continued to report directly to Mr. Devine, the Traffic Sign Supervisor. The Traffic Operations Foreperson<sup>6</sup> was assigned as a direct report to the selected candidate. The Appellant, the Sign Painter and the Traffic Operations Technician became direct reports to the other Assistant Traffic Sign Supervisor, Mr. D’Amelio. (*Resp.Exh.12; Ans.Int.7*)

## **APPLICABLE CIVIL SERVICE LAW**

Civil service examinations have not been administered for most non-public safety official service job titles. Thus, without any qualified tenured civil service employees, the position of Assistant Traffic Sign Supervisor and other civil service titles in the Sign Shop, including the

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<sup>6</sup> The Traffic Operations Foreperson position was filled by Jacob Mancebo, the brother of Anson Mancebo. (*Testimony of Appellant*)

Appellant’s job, could only be filled by provisional appointments open to both internal and external candidates. See G.L. c. 31, §12 through §15. See generally Mejias v. City of Boston, 33 MCSR 241 (2020) (explaining process for filling civil service positions for which exams are no longer given); Palluccio v. Department of Revenue, 28 MCSR 18 (2015) (same).

Section 12 of Chapter 31 provides the statutory authority to make a provisional appointment to a position in the official civil service. That statute provides, in relevant part:

*An appointing authority may make a provisional appointment to a position in the official service . . . . Such authorization may be given only if no suitable eligible list exists from which certification of names may be made for such appointment* or if the list contains the names of less than three persons who are eligible for and willing to accept employment and the appointing authority submits a written statement to the administrator that each person whose name was certified and who reported for an interview was interviewed and considered for appointment and states sound and sufficient reasons, satisfactory to the administrator, for not making an appointment from among such persons. A provisional appointment may be authorized pending the establishment of an eligible list. Such authorization shall be void unless exercised within two weeks after it is granted.

G.L. c. 31, §12, ¶1 (*emphasis added*).

Section 14 of Chapter 31 provides, in relevant part:

A provisional appointment may be terminated . . . at any time and . . . shall be terminated forthwith whenever . . . the person appointed does not, in fact, possess the approved qualifications or satisfy the approved requirements for the position.

G.L. c. 31, §14, ¶2.

Finally, although a provisional appointment does not require an appointing authority to provide “reasonable justification” for selecting one candidate over another, as would be the case in permanent civil service appointments and promotions, the Commission always maintains authority under G.L. c. 31, §2(a), to initiate investigations, including an investigation into whether any appointment process was consistent with basic merit principles of civil service law as prescribed by G.L. c. 31, §1, ¶4 — something that the Commission does only sparingly and only when there

is clear and convincing evidence of systemic violations of Chapter 31 or an entrenched political or personal bias that can be rectified through the Commission's affirmative remedial intervention.

## **ANALYSIS**

Boston has established, by a preponderance of the evidence, that: a) the candidate appointed to the position of a second Assistant Traffic Sign Supervisor met the minimum qualifications for the position; and b) that an investigation by the Commission into the process for selection of that candidate is not warranted.

The minimum qualifications specified in the job posting for the position of Assistant Traffic Sign Supervisor include:

Three (3) years' experience in the two (2) years of which must have been in a supervisory capacity.

First, the selected candidate meets these minimum qualifications. He has been an employee of the Sign Shop for more than a decade, serving the last three years in the position of Traffic Operations Foreperson with full-time responsibility to supervise the four to seven Sign Shop employees in the field.

I conclude that the selected candidate meets the required minimum of three years overall experience in "fabrication and installation of public safety, regulatory and street name signs." Although the selected candidate's experience with the "fabrication" of printed signs was not as extensive as the Appellant's 28 years in the Sign Shop, the selected candidate did have responsibility for printed sign fabrication when he was a Senior Traffic Maintenance Person and, more recently, as the Traffic Operations Foreperson, was responsible for programming and maintaining the digital signage in the field.

I also conclude that the selected candidate's three years as the Traffic Operations Foreperson meets the minimum two years' supervisory qualifications as posted for the job. I construe the

language of the job posting to mean that that the supervisory requirement is met by two years of supervision in any either “fabrication” or “installation” of signs, or some combination of both.

Second, I conclude that supervisory experience, especially in field operations, is the most critical qualification. The job description for the position states: “Under general supervision performs work of moderate difficulty and supervises skilled and or semi-skilled employees in sign fabrication, maintenance, repair and installation. Assumes all responsibilities of the Traffic Sign Supervisor in his absence.” The job Responsibilities in the posting for the position focus heavily on “operations”. In this respect, the selected candidate has far more knowledge and experience than any other candidate.

Third, I conclude that the Appellant lacks the necessary two years of supervisory experience to meet the minimum qualifications. At best, he has performed occasional training and oversight of the in-house sign shop personnel, but not the type of assigned, regular supervision that I construe the job posting to require for a position that is, in effect, the second-in-command of the entire Sign Shop. In this regard, as the Appellant is not, himself, qualified for the position of Assistant Traffic Sign Supervisor. Alternatively, I find that the Appellant is not a person who can claim that he has been aggrieved by a violation of his civil service rights.

Fourth, I find that the facts presented in this appeal do not warrant the Commission initiating an investigation under Section 2(a) into the process that was used to make a provisional appointment to the position of Assistant Traffic Sign Supervisor. On its face, the interview process was reasonably objective and consistent with the requirements for a level playing field under basic merit principles of civil service law. Although the Appellant raises an issue of bias for having once grieved the denial of overtime pay and suggested that the specter of favoritism was at play, on this record, neither allegation rises above the speculative level, let alone establishes by “clear

and convincing evidence”, that the process was tainted by either of those alleged issues. Moreover, since the Appellant does not meet the minimum qualifications for the position, he is, therefore, not an “aggrieved person” entitled to seek an investigation under Section 2(a).

## CONCLUSION

For the reasons stated above, the Appellant’s appeal under Docket Number E-24-096 is *dismissed*.

Civil Service Commission

/s/Paul M. Stein  
Paul M. Stein  
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) on June 26, 2025.

Either party may file a motion for reconsideration within ten days of receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Timothy Davis (Appellant)  
Tanya Dennis, Esq. (for Respondent)