

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

Marc Garrett,
Petitioner

v.

Docket No. CR-25-0420

Bristol County Retirement System,
Respondent

Appearance for Petitioner:

Marc Garrett

Appearance for Respondent:

Charles McLaughlin Jr., Esq.

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF DECISION

No authority allows petitioner to buy creditable service for his service on local Zoning Board of Appeals, and he is not eligible to buy creditable service for his service on local Planning Board. The denial by Bristol County Retirement System (BCRS) of petitioner's request to buy that creditable service is affirmed.

DECISION

The petitioner, Marc Garrett, appeals the denial by BCRS of this request to purchase creditable service for his service on the Town of Plymouth's Zoning Board of Appeals and the Planning Board.

This appeal proceeded on written submissions. I had asked Mr. Garrett to explain the purpose of a hearing that had been scheduled and to state whether he had further argument. After he answered, I concluded that a hearing would not serve a substantive purpose.

The submissions contain 15 clearly marked exhibits attached to the Joint Hearing Memorandum.

Findings of Fact

1. From 1989 through 1997, Mr. Garrett served on the Zoning Board of Appeals of the Town of Plymouth. He was not paid. The position was appointed. (Exs. 1, 2, 13; stipulation)

2. From 2006 through 2016, Mr. Garrett served on the Planning Board of the Town of Plymouth. He was not paid. The position was elected. (Exs. 1, 2, 13; stipulation)

3. On June 2, 2025, Mr. Garrett wrote to BCRS, stating that as of May 31, 2025, he calculated that he had approximately 8.15 years of creditable service. He asked BCRS to allow him to buy creditable service for his service on the Town of Plymouth's Zoning Board of Appeals and Planning Board so that he could meet the minimum of 10 years of service to vest in the retirement system. He did not state that he was retiring imminently. (Exs. 13, 14)

4. On June 5, 2025, BCRS, of which Mr. Garrett was a member, asked the Town of Plymouth Retirement Board what liability it would accept. (Letter of BCRS to Plymouth Retirement Board)

5. On June 16, 2025, the Town of Plymouth Retirement System informed BCRS that Mr. Garrett had never been a Plymouth Retirement System member; he was not erroneously excluded from membership; and the Plymouth Retirement System would not accept liability for his prior uncompensated service to the Town of Plymouth. (Ex. 2)

6. On June 24, 2026, BCRS informed Mr. Garrett of the decision of the Town of Plymouth Retirement System and that BCRS would not accept liability for his unpaid service. (Ex. 4)

7. On July 8, 2025, Mr. Garrett timely appealed. (Email from Garrett to DALA, July 8, 2025)

Discussion

No statute, regulation, or other authority allows Mr. Garrett to buy creditable service for his unpaid appointed service on the Zoning Board of Appeals.

The service, on or after July 1, 2009, of an elected municipal official receiving less than \$5,000 per year is not creditable service. G.L. c. 32, § 4(1)(o). Therefore, Mr. Garrett cannot purchase his unpaid elected service, on and after July 1, 2009, on the Planning Board.

As for his unpaid elected service on the Planning Board from 2006 to July 1, 2009, Mr. Garrett *might* have been able to buy creditable for service if he had applied for membership in the relevant retirement system within 90 days of taking office. G.L. c. 32, § 3(2)(a)(vi). However, he did not apply. *Zaleznik v. Newton Ret. Sys. & PERAC*, CR-24-602 (DALA April 17, 2026).

Therefore, Mr. Garrett cannot purchase his elected service as creditable service.

Mr. Garrett's argument

On August 1, 2025, Mr. Garrett responded to DALA's First Pre-Hearing Order. In his response, he conceded that he "presents no legal issues" but "a simple request" to buy creditable service because he had "rendered public service" "both paid and unpaid."

In the Joint Hearing Memorandum, Mr. Garrett asked the Division of Administrative Law Appeals to "see beyond the legal analysis" and allow him to buy 1.2 years of creditable service that the law bars him from buying because he's "worthy" and it's "a very limited amount of years." (Joint Hearing Memorandum at 6)

Mr. Garrett asks for a legal ruling that he concedes is not legal. His previous public service does not entitle him to a public pension in violation of the law.

Conclusion and Order

BCRS's denial of Mr. Garrett's request to buy creditable service is affirmed.

Dated: October 2, 2026

/s/ Kenneth Bresler

Kenneth Bresler
Administrative Magistrate
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