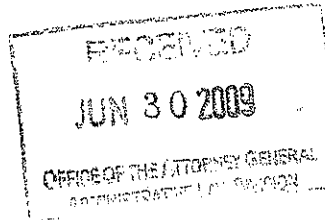


Commonwealth of Massachusetts
County of Plymouth
The Superior Court

Civil Docket PLCV2008-01048

RE: Langill v Hingham et al

TO: Robert L Quinan Jr, Esquire
Mass Atty General's Office
1 Ashburton Place
20th floor
Boston, MA 02108-1698



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COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

CLERK'S NOTICE

This is to notify you that in the above referenced case the Court's action on 06/29/2009:

*RE: Pltff's MOTION for judgment on the pleadings (Rule 12c),
pltff's memorandum in support; deft Town of Hingham's opposition*

is as follows:

The plaintiff, David Langill, appeals the Town of Hingham's decision to bypass him for a position as a Hingham police officer.

Pursuant to G.L. c. 30A, § 14(7), this court may reverse, remand, or modify an agency decision if "the substantial rights of any party may have been prejudiced" because the agency decision is based on an error of law or on unlawful procedure, arbitrary and capricious or unwarranted by facts found by the agency and supported by substantial evidence. Langill bears the burden of demonstrating the invalidity of the Department's decision. *Merisme v. Board of Appeal on Motor Vehicle Liab. Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989). In reviewing the administrative decision, the Court is required to "give due weight to the experience, technical competence, and specialized knowledge of the agency, as well as to the discretionary authority conferred upon it" by statute. G.L. 30A, § 14(7); *Flint v. Commissioner of Pub. Welfare*, 412 Mass. 416, 420 (1992); *Seagram Distillers Co. v. Alcoholic Beverages Control Comm'n*, 401 Mass. 713, 721 (1988). The reviewing court may not substitute its judgment for that of the agency. *Southern Worcester County Regional Vocational Sch. v. Labor Relations Comm'n*, 386 Mass. 414, 420-21 (1982), citing *Olde Towne Liquor Store, Inc. v. Alcoholic Beverages Control Comm'n*, 372 Mass. 152, 154 (1977). Nor may a court reject an administrative agency's choice between two conflicting views, even though the court justifiably would have made a different choice had the matter been presented de novo. *Zoning Bd. of Appeals v. Housing Appeals Comm'n*, 385 Mass. 651, 657 (1982) (citations omitted).

Despite Mr. Langill's strong academic and professional record, the Civil Service Commission's decision upholding the Town of Hingham's reasons for bypassing the plaintiff and selecting a candidate lower on the list was proper. The Town of Hingham followed the proper procedure pursuant to G.L. c. 31, § 27, and the Commission, relying on credible evidence, was justified in finding that the Town sustained its burden of proving reasonable justification for bypassing the plaintiff. The Commission's decision was not predicated upon an error of law, was

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based on substantial evidence, and was not arbitrary and capricious.

The plaintiff's motion for judgment on the pleadings is **DENIED**. The decision of the Civil Service Commission is upheld, and this court **ORDERS** that the plaintiff's complaint be dismissed with prejudice. (Robert C. Rufo, Justice)

Dated at Plymouth, Massachusetts this 29th day of June, 2009.

Robert S. Creedon, Jr. Clerk,
Clerk of the Courts

BY:

Adam Baler
Assistant Clerk

Telephone: (508) 747-8565

Copies mailed 06/29/2009