

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

JOINT REQUEST BY:

LORI MONIZ &

CITY TAUNTON,
Petitioners

Case No.: E-09-344

**DECISION ON JOINT REQUEST FOR RELIEF UNDER
CHAPTER 310 OF THE ACTS OF 1993**

The City of Taunton and the Appellant, Lori Moniz, filed a Joint Request for Relief under 310 of the Acts of 1993, seeking a retroactive seniority date in the position of permanent full-time police officer of November 27, 2006 for the Appellant.

As a result of a pre-hearing conference and documents submitted by the parties, it appears that the following facts are not in dispute:.

1. As a result of a Special Act of the Legislature (Chapter 141 of the Acts of 2006), the Appellant's name was to be placed at the top of the next certification issued to the City of Taunton for the position of reserve police officer.
2. On November 7, 2006, the state's Human Resources Division (HRD), at the request of the City of Taunton, forwarded Certification No. 261097 to the City with the list of three names to be considered for the position of reserve police officer, with the name of Lori Moniz at the top.
3. On November 14, 2006, the City forwarded an "Authorization of Employment Form – Form 14" to HRD seeking to appoint Lori Moniz to the position of reserve police officer, effective November 14, 2006.
4. On January 5, 2007, HRD, at the request of the City, forwarded "Roster Certification" No. 270021 to the City containing the names of four reserve police officers that could be considered for appointment as permanent full-time police officers. This roster contained the names of 4 reserve police officers, ranked in the order of their appointment as reserve police officer. The name of the Appellant, who had just been appointed to the position of reserve police officer, was listed as fourth, behind three other reserve police officers who had held that title for several years.
5. Shortly after January 5, 2007, the City submitted an "Authorization of Employment Form – Form 14" to the City seeking the appointment of all four reserve police officers, including the Appellant, with seniority dates between January 23, 2007 and January 26, 2007, as permanent full-time police officers.

The parties are now seeking to retroactively adjust the Appellant's civil seniority date for the position of permanent full-time police officer to November 27, 2006. As justification for this request, the City's Clerk stated that the City intended to appoint the Appellant as a permanent full-time police officer as of this date, which coincides with the date that the Appellant was enrolled in the police academy. Asked by this Commissioner how the Appellant could have been appointed ahead of three other individuals whose name appeared on the reserve police officer "roster" as of that date, the City points to an October 12, 2006 letter from the City's Police Chief in which he sought a special certification for a female permanent full-time police officer (the other three individuals on the reserve roster are males).

The parties' joint request should be denied for the following reasons. The plain language of Chapter 141 of the Acts of 2006 was to give the Appellant an opportunity to be appointed as a reserve police officer in the City of Taunton. Based on a clarification from the legislative sponsors, HRD placed the Appellant's name at the top of the Certification for the position of reserve police officer in the City of Taunton.

Approximately four months after the Special Act of the legislature was approved, the City appointed the Appellant as a reserve police officer, effective November 14, 2006. The Appellant's name was added to a pre-existing roster of names that contained the names of three male reserve police officers. All four of these Appellants were subsequently appointed as permanent full-time police officers, with effective dates in January 2007.

Although the City argues that the Appellant should have been appointed as a permanent full-time police officer in November because they sought a special certification for a female officer, that request was originated by the City more than 3 weeks prior to the Appellant being appointed to the position of reserve police officer. Hence, at that point in time, she was not even eligible to be appointed as a permanent full-time police officer.

Even if the City were to show that the request for a special certification was submitted to HRD after the Appellant's appointment as a reserve police officer on November 14, 2006, a retroactive seniority date would still not be appropriate in this case. The plain language of the Special Act gave the Appellant preference for the position of reserve police officer. It did not provide the Appellant with the right to be placed ahead of three other reserve officers for the position of permanent full-time police officer.

The seniority dates granted to the four reserve police officers who were appointed as permanent full-time police officers in January 2007 was in compliance with the civil service law and rules and consistent with basic merit principles. The Appellant has not been aggrieved pursuant to G.L. c. 31, § 2(b). Given the facts of this particular case, it would be contrary to basic merit principles to grant the Appellant a retroactive seniority date more favorable to the other reserve police officers that were appointed as permanent full-time police officers in January 2007.¹

For all of these reasons, the parties Joint Request for Relief under Chapter 310 of the Acts of 1993 is hereby *denied*.

¹ As part of the pre-hearing conference regarding this matter, the Appellant stressed that she was only seeking to ensure that the appropriate civil service seniority date was assigned to her and that she was not seeking to gain an advantage over any other candidate selected for appointment. Her comments were sincere and appeared heartfelt. The City appears to have made a good choice in choosing to appoint her as a police officer.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis, Stein and Taylor, Commissioners) on September 24, 2009.

A True Record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

Lori Moniz (Appellant)

Robert M. Spiegel, Esq. (for Appointing Authority)

Martha O'Connor, Esq. (HRD)