

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-1900

INVESTIGATION RE:
CITY OF NORTHAMPTON LABOR SERVICE APPOINTMENTS

Tracking No.: I-18-029

Appearance for N.A.M.E.:

Marshall T. Moriarty, Esq.
The Moriarty Law Firm
34 Mulberry Street
Springfield, MA 01105

Appearance for City of Northampton:

Layla G. Taylor, Esq.
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One Monarch Place: Suite 1200
Springfield, MA 01144

Commissioner:

Christopher C. Bowman

**RESULTS OF COMMISSION INVESTIGATION AND
ORDERS PURSUANT TO CHAPTER 310 OF THE ACTS OF 1993**

1. On or about March 15, 2018, following an appeal hearing before the Civil Service Commission (Commission) in Dean Downer v. City of Northampton, CSC Case No. D1-17-133, where an issue was raised about whether the City of Northampton (City) was properly making labor service appointments, the Commission ordered, among other things, that, absent evidence the City has removed certain labor service positions from civil service, the City shall request, within three (3) months, that the state's Human Resources Division (HRD) conduct an audit of the City's practices regarding labor service appointments and promotions and make recommendations how the City can begin complying with the civil service law regarding such appointments and promotions.
2. The Decision also ordered that, following the audit, the City would consult with HRD and representatives from any local unions representing incumbent labor service employees, to provide the Commission with a plan to ensure compliance with the civil service law on a going-forward basis and provide relief (i.e. – civil service permanency) to any incumbent civil service employee impacted by the City's failure to comply with the civil service law and rules with respect to labor service appointments and promotions.

3. HRD completed the audit, identified which of the City's job titles fell under labor service and recommended the appropriate labor service titles from the "Municlass Manual".
4. The City provided this information to the officers of the Northampton Association of Municipal Employees (N.A.M.E.); counsel for N.A.M.E., and the impacted incumbent employees, including those employees who may have previously held a labor service position but were provisionally promoted to an official service position.
5. Specifically, each impacted employee was provided with their proposed labor service title and proposed civil service permanency date. A limited number of employees had inquiries which were addressed by the City and shared with the Commission. Ultimately, no impacted employee, after being given the opportunity to do so, has objected to the proposed title and/or civil service permanency date proposed by the City.
6. Finally, the City, in concert with HRD, has developed a plan to ensure that all labor service appointments and promotions, on a going forward basis, will be made consistent with the civil service law and rules.

For all of the above reasons, the Commission, pursuant to its authority under Chapter 310 of the Acts of 1993, hereby orders the following:

1. All City of Northampton employees hired into non-temporary labor service positions who have completed at least six (6) months of employment with the City, shall be deemed permanent, tenured, civil service employees in their current, non-temporary labor service positions to be effective as of the date of this decision.
2. The civil service seniority date of any individual referenced in Paragraph 1 shall be the individual's first day of service as a labor service employee with the City.
3. For those employees hired into non-temporary labor service positions who have not completed six (6) months of employment with the City as of the date of this decision, they shall be deemed permanent / tenured upon serving their six (6) month probationary period.
4. Any individual referenced in Paragraph 1 who was subsequently promoted to an official service title for which there was no eligible list shall be considered provisionally promoted into that official service title and retain their labor service appointment date and all rights that come with that. (The City provided an attachment which includes the names, titles and seniority dates of impacted employees.)
5. The City shall not make any provisional appointments or provisional promotions into labor service titles except as permitted under the provisions provided by law and shall

comply with all civil service laws and rules regarding labor service appointments and promotions.¹

6. The City shall provide a copy of this decision to all impacted employees.

SO ORDERED.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman

Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Stein & Tivnan, Commissioners [Camuso – absent]), on August 13, 2020

Either party may file a motion for reconsideration within ten days of the 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 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. 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 sent to:

Marshall Moriarty, Esq. (for N.A.M.E.)

Layla Taylor, Esq. (for City of Northampton)

Michele Heffernan, Esq. (General Counsel, HRD)

Regina Caggiano (Director of Service Unit, HRD)

¹ Failure by the City to maintain appropriate labor service rosters shall not be justification to make a provisional appointment.