

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

JOHN PATHIAKIS & 5 OTHERS,
Petitioners

v.

I-14-37

TOWN OF ANDOVER,
Respondent

Appearance for Petitioners:

Gary Nolan, Esq.
Nolan Perroni Harrington
133 Merrimack Street
Lowell, MA 01852

Appearance for Respondent:

Joshua Coleman, Esq.
Collins, Loughran & Peloquin, PC
320 Norwood Park South
Norwood, MA 02062

Commissioner:

Christopher C. Bowman

RESPONSE TO REQUEST FOR INVESTIGATION

On January 31, 2014, the Petitioners asked the Civil Service Commission (Commission) to investigate whether the Town of Andover (Town) was violating civil service law and rules by deeming the position of “Commander” as a non-civil service position and filling that position with a Sergeant. On March 4, 2014, a conference was held to allow the Petitioners to show cause why the Commission should conduct an investigation.

On April 11, 2014, the Commission issued a Procedural Order (Procedural Order I) which opened an investigation under G.L. c. 31, s. 2(a). The Commission provided the Town with the opportunity to submit a brief showing why the Commission should not issue an order deeming

that the Commander position is covered by civil service; and provided the Petitioners with 30 days to submit a reply brief. The parties submitted briefs, which I carefully reviewed in their entirety.

Based on the submissions of the Parties, and the many material facts in dispute, a full hearing was scheduled so that the Town and the Petitioners could present witness testimony and any further evidence allowing the Commission to determine whether the Commander position should be filled through the civil service process.

Subsequent to the scheduling of the full hearing, the parties submitted to the Commission a revised job description for the Commander Position, now known as the Executive Officer, together with a Joint Request for the Commission to review the same and, if found to be consistent with the 1991 opinion of the State's Human Resources Division (HRD), to issue an Order of Dismissal with prejudice.

Having carefully reviewed the submitted job description, I concur with the parties that the newly revised job duties for the assignment of Executive Officer are consistent with those previously presented to HRD in 1991, in which HRD determined that the position in question was not a civil service position. Accordingly, no further action or investigation is required by the Commission and the investigation is hereby *closed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell, and Stein, Commissioners) on December 11, 2014.

Notice:
Gary Nolan, Esq. (for Petitioners)
Joshua Coleman, Esq. (for Town of Andover)
John Marra, Esq. (HRD)