

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

JOSEPH H. TURNER,

Appellant

v.

TOWN OF BILLERICA,

Respondent

Case Nos.: G2-09-332

ORDER OF DISMISSAL WITHOUT PREJUDICE

The Appellant, who holds the civil service title of working foreman, filed an appeal with the Civil Service Commission contesting the Town of Billerica's decision to designate Everett Crotty as "Acting Cemetery, Tree and Parks Superintendent."

Based on the mutual agreement of the parties, as discussed at a March 2, 2010 status conference regarding this matter, the Civil Service Commission dismisses this appeal *without prejudice* subject to the following:

1. The Town of Billerica shall decide whether it intends to fill the position of Cemetery, Tree and Parks Superintendent, either through a provisional appointment or a provisional promotion within thirty (30) days.
2. Should the Town choose not to fill the position through a provisional appointment or promotion, the Town's designation of Everett Crotty as "Acting Cemetery, Tree and Parks Superintendent" shall be vacated.
3. Should the Town choose to fill the position through a provisional appointment or promotion, the Town shall comply with all civil service law and rules regarding provisional appointments or promotions. (See Pease v. Department of Revenue, 22 MCSR 284, 287 (2009); Poe v. Department of Revenue, 22 MCSR 287, 290 (2009); Garfunkel v. Department of Revenue, 22 MCSR 291, 296 (2009)). Said provisional appointment or promotion process must be concluded within ninety (90) days of this order.
4. The time period pursuant to G.L. c. 30A, § 14(1) for a party to file a Motion for Reconsideration and the time period pursuant to G.L. c. 30A, § 14 generally for a party to seek judicial review of this Decision are hereby *tolled* until thirty days after the Town has made a provisional appointment or promotion.
5. In the event that the Appellant is not the candidate who is selected for the provisional appointment or promotion, the Commission will accept and allow a Motion for

Reconsideration seeking to reinstate the Appellant's appeal under docket no. G2-09-332.
No additional filing fee will be required.

6. This Order does not ban the Town, should this appeal is reinstated, from arguing lack of standing by the Appellant.
7. All paragraphs with the exception of Paragraph 1 shall have an effective date of thirty (30) days from the issuance of this order.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Stein and Taylor, Commissioners [Marquis – Absent]) on March 4, 2010.

A True Record. Attest:

Commissioner

Notice to:

Michael Tumplosky, Esq. (for Appellant)
Kevin Feeley, Esq. (for Appointing Authority)
John Marra, Esq. (HRD)