

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

LON ELDRIDGE et al,

Appellants

v.

CITY OF LYNN,

Respondent

Case No.: G2-04-387 (ELDRIDGE)
G2-04-392 (BARRY)
G2-04-393 (SHARPE)
G2-04-400 (ELWELL)
G2-04-401 (JAMES)
G2-04-413 (POTTER)

INITIAL DECISION

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellants appealed the decision of the City of Lynn bypassing them for provisional promotion to the position of General Foreman, a position in the official service for which there has been no examination or list issued in several years.

A pre-hearing was held at the Commission on December 9, 2004 and the Appellants subsequently filed a Motion for Summary Decision on January 18, 2005. The City filed an Answer with the Commission in the form of an affidavit by the City's former Director of the Department of Public Works.

A motion hearing was held before the Commission on June 6, 2007 at which the Commission heard oral arguments from counsel for both parties. As a result of that motion hearing and the documentary evidence in the case file, the Commission makes the following initial decision:

1. The appeal under Docket No. G2-04-400 is hereby *dismissed* based on the representation by Appellants' counsel that Mr. Elwell is no longer prosecuting his appeal;
2. The appeal under Docket No. G2-04-392 is hereby *dismissed* as Mr. Barry has now filed for retirement and received a retirement date from the City's retirement board. As such, there is no relief that can be granted to this Appellant pursuant to this bypass appeal;
3. The appeal under Docket No. G2-04-393 is hereby *dismissed* as Mr. Sharpe is now retired and there is no relief that can be granted to this appellant pursuant to this bypass appeal;
4. The appeal under Docket No. G2-04-413 is hereby *dismissed* as Mr. Potter is not a permanent civil service employee in the next lower title to General Foreman, thus making his bypass appeal regarding this provisional promotion moot;
5. A full hearing will be held before the Commission at 9:30 A.M. on September 27, 2007 regarding the two remaining consolidated appeals under Docket Nos. G2-04-387 and G2-

04-401 for the purpose of determining whether Mr. Eldridge and Mr. James, two individuals who are permanent in the next lower title, were qualified for the position of General Foreman at the time of the provisional promotion of Michael Maes to said position. The Appellants' appeal before the Commission is hereby limited to the facts regarding the provisional promotion of Mr. Maes, as opposed to the provisional promotion of Brian Cooper, an individual who held permanency in the next lower title and whose seniority date is greater than either of the two remaining Appellants.

Civil Service Commission

Christopher C. Bowman
Commissioner

John J. Guerin
Commissioner

By vote of the Civil Service Commission (Bowman, Guerin, Marquis, Taylor, Commissioners) on June 14, 2007.

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:

Daniel A. Cocuzzo, Esq. (for Appellants)
David Grunebaum, Esq. (for Appointing Authority)