



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Program Director  
Housing Assistance (M0836R),  
Irvington Housing Authority

Request for Enforcement

CSC Docket No. 2016-334

ISSUED: OCT 21 2016 (HS)

The Division of Agency Services (Agency Services) requests that Irvington Housing Authority be ordered to return the June 16, 2014 certification (OL140824) of the eligible list for Program Director Housing Assistance (M0836R) for proper disposition.

By way of background, the appointing authority provisionally appointed Becky Roselle, pending open-competitive examination procedures, to the title of Housing Coordinator effective May 27, 2008.<sup>1</sup> As a result, an examination for Housing Coordinator (M1056P) was announced with a closing date of December 26, 2012. Thereafter, on June 21, 2013, a request for a classification review of Roselle's position was filed with the former Division of Classification and Personnel Management.<sup>2</sup> Based on the classification review of Roselle's position, she was provisionally appointed, pending open-competitive examination procedures, to the title of Program Director Housing Assistance effective July 13, 2013, and the examination for Housing Coordinator (M1056P) was cancelled. As a result of Roselle's provisional appointment to the title of Program Director Housing Assistance, an examination for that title was announced with a closing date of September 26, 2013. Roselle and 11 other applicants were admitted to the examination, which was conducted utilizing the Supervisory Test Battery on May 13, 2014. The resulting eligible list of five names promulgated on June 12, 2014

<sup>1</sup> It is noted that the appointing authority did not enter this appointment into the County and Municipal Personnel System until August 13, 2012.

<sup>2</sup> Now Agency Services.

and expires on June 11, 2016. On June 16, 2014, the names of all five eligibles, including Roselle as the fifth ranked eligible, were certified (OL140824) from the eligible list with a disposition due date of September 16, 2014. Agency Services notified the appointing authority that the certification was overdue on October 20, 2014 and issued a Notice of Salary Disapproval on November 24, 2014. On March 16, 2015, Agency Services provided the appointing authority with an additional opportunity to return the certification. On March 23, 2015, the appointing authority entered into the County and Municipal Personnel System the appointment of Roselle to the unclassified title of Urban Initiatives Coordinator Housing Authority with an effective date of September 17, 2014. However, the appointing authority failed to return the certification. Subsequently, Agency Services referred the matter to the Civil Service Commission (Commission) for enforcement.

The appointing authority was notified that the matter had been referred to the Commission for enforcement and it was advised that any failure on its part to return the certification could subject it to the assessment of costs, charges and fines pursuant to *N.J.A.C.* 4A:10-2.2(b).

Despite several opportunities to do so, the appointing authority has not returned the certification as requested nor has it submitted any additional information.

## CONCLUSION

*N.J.A.C.* 4A:4-4.8(b) requires an appointing authority to notify Agency Services of the disposition of a certification by the disposition due date in the manner prescribed by this agency. Clearly, the appointing authority has violated this vital regulation. The Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A.* 11A:10-3; *N.J.A.C.* 4A:10-2.1(a)2. See *In the Matter of Fiscal Analyst (M1351H)*, Newark, Docket No. A-4347-87T3 (App. Div. February 2, 1989). Therefore, the appointing authority is ordered to return the certification within 10 days of receipt of this decision. If, at any time, the appointing authority does not adhere to the timeframes for the proper certification disposition without an approved extension of time, it shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

It is also noted that in accordance with *N.J.S.A.* 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if

there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints. In this matter, the examination for the title of Program Director Housing Assistance was generated as a result of the provisional appointment of Roselle. Even though a complete certification of five names was issued, the appointing authority did not return the certification but appointed Roselle to the unclassified title of Urban Initiatives Coordinator Housing Authority. However, a classification review previously indicated that Roselle's position was appropriately classified as a Program Director Housing Assistance, and there is no substantive evidence in the record that the duties of the position have changed. Accordingly, it appears that Roselle may have been appointed to the unclassified title so that she could continue to be employed even though she was in the fifth position on the certification and thus potentially unreachable for appointment. As such, the unclassified appointment appears to have been an attempt to circumvent Civil Service law and rules. Since the Commission cannot determine on the existing record the title to which Roselle should be classified, it is appropriate that this issue be referred to Agency Services for a classification review of Roselle's position.

### ORDER

Therefore, it is ordered that the appointing authority properly dispose of the June 16, 2014 certification (OL140824) of the eligible list for Program Director Housing Assistance (M0836R) within 10 days.

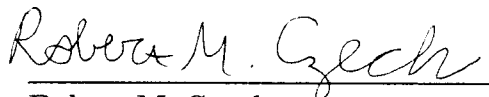
Moreover, the Civil Service Commission orders that the costs incurred by this agency in the compliance process be assessed against the appointing authority in the amount of \$1,000, pursuant to *N.J.S.A. 11A:10-3* and *N.J.A.C. 4A:10-3.2(a)5*, to be remitted within 30 days of the issuance of this decision.

If, at any time, the appointing authority does not adhere to the timeframes for the proper certification disposition without an approved extension of time, it shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

It is further ordered that the Division of Agency Services complete its classification review of Becky Roselle's position and issue its determination to Roselle, the appointing authority and the Civil Service Commission within 60 days of the issuance of this decision.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 19<sup>TH</sup> DAY OF OCTOBER, 2016



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