



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Code Enforcement
Officer (M0242T), Willingboro
Township

CSC Docket No. 2016-4010

Appointment Waiver

ISSUED: **NOV 15 2016** (DASV)

Willingboro Township requests permission not to make an appointment from the October 1, 2015 certification for Code Enforcement Officer (M0242T), Willingboro Township.

The record reveals that the appointing authority requested an open-competitive examination for Code Enforcement Officer to fill a vacancy. The examination resulted in an eligible list promulgating on October 1, 2015 and expiring on September 30, 2018. The eligible list contains the names of eight nonveterans and was certified on October 1, 2015 with a disposition due date of January 2, 2016. The appointing authority returned the certification on May 9, 2016, requesting a waiver of the appointment requirement. The request was acknowledged by this agency, and the appointing authority was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. It is noted that the appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to its processing.

In its request, the appointing authority states that there are no provisional employees in the subject title and veterans do not appear on the eligible list. Moreover, it asks that the Civil Service Commission (Commission) consider the fact

that the eligible ranked in the first position on the certification,¹ Theodore Evans, refused appointment since he accepted another position in the Township. In that regard, agency records indicate that Evans was promoted to Building Inspector effective July 3, 2015. Additionally, the appointing authority asserts that beginning in January 2016, budgetary cuts and other fiscal measures were taken in order to bring its budget within the targeted range. As such, it had determined that it was not fiscally prudent to hire a Code Enforcement Officer, given that there were two Code Enforcement Officer Trainees at the time of the certification who subsequently advanced to the journeyman title in May and July 2016. In addition, the appointing authority hopes that it will be able to appoint from the subject eligible list before its expiration on September 30, 2018. Therefore, it requests that the appointment waiver be granted. It is noted that the appointing authority submitted a check for \$2,048 for the costs of the selection process.

CONCLUSION

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 by the Commission for a valid reason such as fiscal constraints.

In the instant matter, the examination for the subject title was generated as a result of the appointing authority's request to fill a vacancy. However, after a complete certification was issued, the appointing authority requested an appointment waiver. It indicates that due to its budgetary issues, the fact that there were two Code Enforcement Officer Trainees at the time of the certification, and the first ranked eligible on the certification accepted another position in the Township, it was not fiscally prudent to appoint a Code Enforcement Officer. Moreover, the appointing authority hopes to be able to use the subject eligible list before its expiration. In addition, there are no provisional employees serving in the subject title. Under these circumstances, the Commission finds that the appointing authority has presented adequate justification for an appointment waiver.

Although the appointing authority's petition for a waiver is granted, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the Civil Service system are two of the primary activities of this agency, these costly efforts are thwarted

¹ The subject examination was administered as an unranked, unassembled examination. Thus, all eligibles on the Code Enforcement Officer (M0242T), Willingboro Township, eligible list are tied in the first rank.

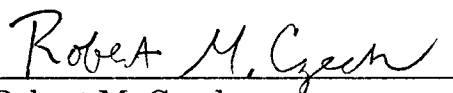
when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, efforts and money to take these examinations in hopes of being considered for a permanent appointment. Additionally, while the Commission recognizes that the appointing authority may be experiencing budgetary issues, it did not take any action to obviate the need for the examination at the time of the announcement or prior to its processing. Therefore, although the appointing authority has shown a sufficient reason for not making an appointment from the subject eligible list, it has failed to present a sufficient basis for not being charged for the costs of the selection process which produced it. It has also submitted a check for such costs. Therefore, based on the foregoing, it is appropriate that the appointing authority be assessed for the costs of the selection process.

ORDER

Therefore, it is ordered that the appointment waiver be granted. Additionally, the Commission orders that the appointing authority be assessed for the costs of the selection process but notes that the costs have already been remitted.

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 10TH DAY OF NOVEMBER, 2016



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