

B-15



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Assistant Assessor
(M0115U), West New York

Appointment Waiver

CSC Docket No. 2017-824

ISSUED: **JAN 23 2017** (RE)

West New York requests permission not to make an appointment from the June 7, 2016 certification for Assistant Assessor (M0115U).

The record reveals that West New York provisionally appointed Brian O'Reilly, pending open-competitive examination procedures, to the title of Assistant Assessor, effective November 20, 2012. As a result of this provisional appointment, an examination for the title was announced with a closing date of February 26, 2016. O'Reilly and nine other applicants were admitted to the examination which was processed as a qualifying examination, *i.e.*, applicants who met the announced requirements were given the same score. The resulting eligible list of five names, including O'Reilly as the sixth ranked non-veteran eligible, promulgated on June 2, 2016 and expires on June 2, 2019. On June 7, 2016, the names of all ten eligibles were certified from the eligible list. West New York returned the certification indicating that it would be separating the provisional and not making an appointment due to economic need and requested an appointment waiver.

West New York's request for an appointment waiver was acknowledged, and it was advised that if its request was granted, it could be assessed for the costs of the selection process in the amount of \$2,048. No further arguments were received.

A review of agency records reveals that there are no employees serving provisionally, pending open-competitive examination procedures, in the subject title in West New York.

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 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 provisional appointment of O'Reilly. After a complete certification was issued, West New York requested an appointment waiver due to economic needs. In addition, it separated O'Reilly from service and there is no one currently serving provisionally in the subject title. Accordingly, based on the foregoing, West New York has presented sufficient justification for an appointment waiver.

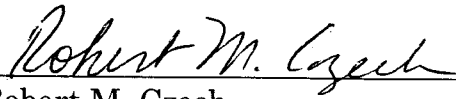
Although West New York's petition for a waiver is granted, both *N.J.S.A.* 11A:4-5 and *N.J.A.C.* 4A:10-2.2(a)2 state that if an appointing authority receives permission not to make an appointment, it can be ordered to reimburse the costs of the selection process. While administering examinations and providing the names of eligible job candidates to the jurisdictions under the merit system are two of the primary activities of this agency, these costly efforts are thwarted when appointing authorities fail to utilize the resulting eligible lists to make appointments and candidates have needlessly expended their time, effort and money to take these examinations in hopes of being considered for a permanent appointment. In the instant situation, although West New York has shown a valid reason for not making an appointment from the subject eligible list, it has failed to provide a sufficient basis for not being charged for the costs of the selection process which produced the subject eligible list.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be granted. Additionally, the Civil Service Commission orders that West New York be assessed \$2,048 for the costs of the selection process.

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
ON THE 18th DAY OF JANUARY, 2017



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