

Supervisors and Zoning Supervisors “oversee” the Inspectors, including Trainees, for all aspects of housing and zoning matters.

The Director provides some background regarding supervision, and Mr. Castro’s placement in two Divisions. He states that Mr. Castro did not perform any zoning inspection duties from December 2019 to August 2020, when he was transferred from the Division of Community Improvements to the Division of Planning and Zoning. He states that Mr. Castro was no longer supervised by the Director of Community Improvements by August 2020.

In response, Mr. Castro explains that Housing Inspectors in the Division of Community Improvements conduct housing and zoning enforcement, and that he oversaw all trainees, as confirmed by his supervisor.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which if portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for Housing and Zoning Inspector states:

Under direction, performs field and office work to ensure compliance with housing and property maintenance ordinances and zoning codes; including conducting inspections to eliminate blight and restore and/or eliminate substandard housing accommodations; conducts inspections to ensure compliance with zoning codes or any of its related or sub codes; does related work as required.

The definition section of the job specification for Senior Housing Inspector states:

Under direction, performs the more difficult inspection work involved in eliminating blight and restoring and/or eliminating subnormal housing accommodations and/or takes the lead over a small inspection unit; does related work as required.

The definition section of the job specification for Zoning Officer states:

Under direction, examines the working plans of proposed buildings for compliance with state, county, and local zoning laws, ordinances, rules,

and regulations and conducts field work to ensure compliance with zoning regulations; does related work as required.

At the outset, the classification of a position is determined based the duties and responsibilities assigned to a position at the time the request for reclassification is received as verified by audit or other formal study. The outcome of position classification is not to provide a career path to the incumbents, but rather is to ensure that the position is classified in the most appropriate title available within the State's classification plan. How well or efficiently an employee does his or her job, length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009). In its decision, Agency Services indicated that Mr. Castro's duties involve lead worker duties. Thus, Agency Services indicated that Mr. Castro was serving in the dual title as Mr. Castro indicated he was taking the lead over a small inspection unit.

On his PCQ, Mr. Castro indicated that for 30% of the time he taught Trainees in the practical application of municipal codes related to housing and zoning ordinances, explained verbiage and provided technical assistance on a case by case basis, and taught best practices for obtaining compliance; for 15% of the time he rode in vehicles with trainees for field inspections, observing, and providing feedback and assurance of inspection results and outcomes, pointing out overlooked violations and giving instructions on handling those violations, and reviewing notices of violations, and providing guidance on referrals to other departments and/or divisions; for 15% of the time, he oversaw trainees in court preparation procedures and dealing with courts, and reporting the disposition of cases to the Director; for 30% of the time he responded to complaints, inspected properties, issued notices of violations, prepared cases for court and trial, assessed referrals for other violations for other departments/divisions, provided clerical support in support of the function, and maintained digital files with data entry of information; and for the remaining 10% of the time, he conducted special operations. The supervisor of the position agreed generally with the statements of Mr. Castro, and stated that the most important duty at that time was to provide direction to the trainees. The appointing authority disagreed with the statements, but provided no comments.

In its appeal, the Director, on behalf of the appointing authority, asserts that Mr. Castro did not take the lead over other inspectors, coordinate schedules or manage their work, and that those duties are performed by their supervisors. In this respect, this description makes no distinction between supervisory duties and lead worker duties. Mr. Castro did not indicate that he coordinated schedules or managed the work of trainees. Taking the lead is the distinguishing characteristic in considering whether a position should be classified at the requested title. Leadership roles refer to persons whose titles are non-supervisory in nature, but are

required to act as a leader of a group of employees in titles at the same or lower level than themselves and perform the same kind of work as that performed by the group being led. See *In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005). Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. In *In the Matter of Elizabeth Dowd, et al.* (MSB, decided February 9, 2005), it was noted that lead worker duties are akin to those of a supervisor in many respects, absent the responsibility for formal performance evaluations that can lead to the effective hiring, firing, or demotion of a subordinate. Intermittently taking charge in the absence of the regular supervisor, instructing staff, training, and ensuring performance of assigned tasks, without the responsibility for employee performance evaluations would be considered duties of a lead worker. See *In the Matter of Diane Epps and Lisa Sallad* (MSB, decided May 15, 2002) and *In the Matter of Martha Grimm* (MSB, decided August 14, 2001). Based on the duties presented on the PCQ, Mr. Casto's position involves leadership over other inspectors on a consistent, daily basis, and he clearly does not supervise. As such, the duties are not consistent with Housing and Zoning Inspector, and the dual title is a better fit with the description of duties.

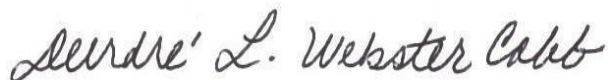
Accordingly, a thorough review of the entire record fails to establish that the appointing authority has presented a sufficient basis to warrant a Housing and Zoning Inspector classification of Mr. Castro's position.

ORDER

Therefore, it is ordered that this appeal be denied.

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 22 DAY OF SEPTEMBER, 2021



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