

FINDINGS AND DECISION OF THE HEARING EXAMINER
FOR THE CITY OF SEATTLE
UNDER DELEGATION FROM THE CIVIL SERVICE COMMISSION

RECEIVED
CITY OF SEATTLE
JUL 1 X 2007
CIVIL SERVICE COMMISSION

SHAUNA L. WALGREN,)
)
Appellant,)
)
v.)
)
SEATTLE DEPARTMENT OF)
TRANSPORTATION,)
)
Respondent.)

File No.:
CSC 07-0002
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JUL 13 2007
CIVIL SERVICE COMMISSION
01-0002

Introduction

The appellant, Shauna Walgren, appealed the Department's hiring process and decision for the position of Senior Transportation Planner.

The hearing was held on June 25, 2007, before the undersigned Deputy Hearing Examiner. Represented at the hearing were the appellant, Shauna Walgren, by Adrienne Thompson, IFPTE 17; and the Seattle Department of Transportation, by Christine Andrade, Human Resources Director.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code (SMC or Code) unless otherwise indicated. After due consideration of the evidence elicited during the appeal hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The appellant, Shauna Walgren, has been employed with the Seattle Department of Transportation (SDOT) since December of 1993. She is currently employed as an Associate Planner at .5 FTE. Her position is currently within the Revenue and Capital Development division of SDOT.
2. The appellant has been in charge of SDOT's Neighborhood Street Fund (NSF) since its inception. The NSF program designs and constructs neighborhood transportation projects in response to neighborhood input.
3. In November, 2006, an Opportunity for Advancement (OFA) Notice (#45-2006) was issued for the position of Senior Transportation Planner (TRN-701987). The

position is described in the OFA (Exhibit 1). The appellant submitted application materials in response to this OFA.

4. Funding to support neighborhood transportation projects was recently increased as a result of the passage of the "Bridging the Gap" (BTG) ballot measure. As a result of this measure, \$1.5 million and several FTEs were to be added to the program.
5. In February, 2007, the City Council approved the hiring of additional staff to implement BTG. A short time later, SDOT began to implement changes to its organization and to some programs that affected the appellant's division. The NSF was moved from the Policy and Planning division to Traffic Management.
6. SDOT reviewed the resumes that had been submitted in response to OFA 45-2006. A screening committee reviewed the resumes for a transit-planning position, and the appellant was called for an interview. She declined, because she wished to remain with the NSF program, and she was aware that the Department would be hiring additional staff later to implement BTG programs.
7. The committee reviewing the resumes submitted for OFA 45-2006 had also forwarded several resumes to Kristen Simpson, currently a Strategic Advisor who supervises the appellant. Ms. Simpson led the hiring for new positions that were funded by BTG, and reviewed the resumes in order to fill senior transportation planner positions to implement BTG.
8. Ms. Simpson testified that this planner position would be involved in implementing the BTG work and the division's new public outreach strategy, and she was seeking a candidate with the skills needed to implement the outreach strategy.
9. In March, 2007, the appellant found out that another SDOT employee had been called for an interview for a senior planner position with the NSF Program. The appellant was surprised and dismayed not to have been called. She then spoke to Ms. Simpson about not being called for an interview, and was told the hiring process was still ongoing.
10. An organization chart dated March 2007 shows that within the Revenue & Capital Development Division, there are five positions reporting to Kristen Simpson. In addition to the appellant, there are two vacant senior planner positions, a vacant .5 associate planner position, and a vacant senior civil engineer position.
11. The appellant was not interviewed. She learned on April 4, 2007, that the senior planner position had been offered to another person. The appellant filed an appeal on April 5, 2007.
12. As a result of this selection process, SDOT hired three planners, including planners who would be working in the NSF program, rather than in transit-related planning.

13. After filing her appeal, the appellant and SDOT discussed settlement of this matter. An OFA for a Senior Transportation Planner (TRN-702603) was published, with filing dates of April 29, 2007 through May 13, 2007. The OFA is set forth in Exhibit 2, and describes a position that would be responsible for the implementation of "neighborhood-focused transportation projects;" the duties include participating in the management of Neighborhood Street Fund projects. The appellant applied for this position, and was interviewed. No hiring decision had been made at the time of hearing.

14. The Department noted at hearing that the appellant has indicated she does not desire a full-time position, although the OFAs for TRN-701987 and TRN 702603 indicate that these are full-time positions.

15. The appeal alleges that SDOT violated Personnel Rule 4.1.4 (Employment Advertisement); Rule 4.1.6 (Selection Process) and 4.1.7 (Final Selection). The remedy sought by the appellant in her appeal statement is "To be considered for the NSF Senior Transportation Planner position." At hearing, the appellant presented a statement which said she was asking "that the Civil Service Commission place me in the Senior Transportation Planner position because I'm the most qualified candidate."

Conclusions

1. The Hearing Examiner has jurisdiction over this appeal pursuant to delegation from the Civil Service Commission under SMC 4.04.250. Under CSC Rule 5.31, the appellant bears the burden of showing by a preponderance of the evidence that the Department's actions were in error.
2. The appeal alleged that SDOT violated Rules 4.1.4, 4.1.6 and 4.1.7 and sought relief in the form of "being considered for the NSF Senior Transportation Planner position." SDOT has published an OFA for the BTG-related planner position and interviewed the appellant for that position. The question therefore arises as to whether any errors or violations have been corrected, and whether any additional relief can be granted in light of SDOT's actions.
3. Rule 4.1.4 requires that the position be advertised, and the OFA for TRN 702603, which was published after the appeal was filed, satisfies the OFA publication requirement for the position desired by the appellant. Even if the Department violated the rules by initially relying on the November OFA for TRN 701987, or committed any other errors in its selection process, any violation or error was corrected when the Department published the OFA for 702603, considered the appellant's application, and interviewed her.
4. The appellant at hearing requested relief in the form of being hired, not merely considered, for the NSF planner position. She also argued that a complete remedy had not been provided because some of the planner positions were filled pursuant to the OFA

Findings and Decision

CSC 07-04-007

Page 4 of 5

for position 701987 and the screening and selection process which were associated with that OFA.

5. In evaluating the appellant's request, it is necessary to consider the fact that SDOT has already filled other positions with candidates whom the hiring authority judged to be competitive and qualified; Dept. Ex. 5; Simpson testimony. To void the hiring decisions already made would be disruptive to the individual employees and to SDOT's operations. Moreover, it appears that a new recruitment and selection process involving all vacant positions would be unlikely to change the result for the appellant; at best, she would be entitled to an interview and consideration for a BTG position. It is undisputed that the appellant has been a key (if not the primary) employee in the NSF program for many years and possesses extensive knowledge and experience specific to this program. But the evidence indicates that the candidates who were considered during the first round of selection were qualified, and no facts or rules have been cited which would obligate the Department to hire the appellant for a particular position.

6. Under the circumstances in this case, while the lack of a more specific OFA could have been an error, SDOT took reasonable corrective measures in the publication and selection processes, and its actions have not violated Rules 4.1.4, 4.1.6 or 4.1.7. Given that SDOT corrected any error or violation that might have been committed, the appeal must be denied.

Decision

SDOT's actions were not shown to be in error, and the appeal is therefore denied.

Entered this 10th day of July, 2007.



Anne Watanabe
Deputy Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

The decision of the Hearing Examiner is subject to review by the Civil Service Commission. To be timely, the petition for review must be filed with the Civil Service Commission no later than ten (10) days following the date of issuance of this decision, as provided in Civil Service Commission Rules 6.02 and 6.03.

BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

Shauna L. Walgren
Appellant

V.

Department of Transportation,
City of Seattle, Respondent

DISMISSAL ORDER

CSC No. 07-04-007

At its July 18, 2007 meeting, the Civil Service Commission considered the July 10, 2007, Findings and Decision of Ann Watanabe, Deputy Hearing Examiner on the above appeal and voted to affirm the decision.


The Executive Director of the Civil Service Commission hereby enters the following

ORDER

THE APPEAL IS HEREBY DISMISSED WITH PREJUDICE.

Issued this *19th* day of *July, 2007*

FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION


Glenda J. Graham-Walton, Executive Director

**CITY OF SEATTLE
CIVIL SERVICE COMMISSION**

**Affidavit of Service
By Mailing**

STATE OF WASHINGTON }
COUNTY OF KING }

TERESA R. JACOBS, deposes and states as follows:

That on the 19th day of July, 2007, I deposited in the U.S. mail, postage prepaid, a
copy of **DISMISSAL ORDER** to:

**Shauna L. Walgren
714 N 100th St
Seattle, WA 98133**

And copies of same via interdepartmental and U.S. mail addressed to:

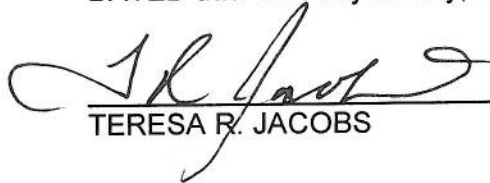
Mark McDermott, Director, Personnel Department
Christine Andrade, HR Director, SDOT
Anne Watanabe, Deputy Hearing Examiner, Hearing Examiner, OHE

In the appeal of:

Shauna L. Walgren v. Seattle Department of Transportation

CSC Appeal No. 07-04-007

DATED this 19th day of July, 2007


TERESA R. JACOBS