

EXHIBIT LIST – BOA MEETING – NOVEMBER 9, 2009

SEAN P. O'BRIEN

V.

CITY OF SOMERVILLE & HRD

- 1.) Certification #290251, issued 5/6/09, to expire on 7/29/09;
- 2.) Certification #290651, issued 9/9/09, to expire on 12/2/09, containing 24 valid signatures of candidates willing to accept employment and letters dated July 27, 2009 and July 29, 2009, from Matthew Buckley, acting personnel director, to Luz Henriquez, HRD certification unit;
- 3.) Certification #290651, as above, but containing only 21 valid signatures of candidates willing to accept employment;
- 4.) Three, separate requests for extension of certification #290651, dated December 24, 2009, February 8, 2010 and February 24, 2010;
- 5.) Appeal of Sean P. O'Brien;
- 6.) Pre-Hearing Submission of Sean P. O'Brien, with witness list;
- 7.) Sean P. O'Brien's Motion to Amend Appeal, with affidavit in support;
- 8.) City's Answer to Appeal, with Motion to Dismiss;
- 9.) City's Pre-Hearing Submission;
- 10.) Unanswered public records request to City's personnel director, Jesse Baker, dated July 23, 2010, along with Sean P. O'Brien informal discovery demand to Elizabeth Whitcher, HRD counsel, dated August 14, 2010 and Whitcher response, dated August 18, 2010;
- 11.) Luz Henriquez memo to Matthew Buckley, dated February 24, 2010, directing the placement of Sean P. O'Brien and Justin Bonner in the the first and fourth positions, respectively, on certification #290651;
- 12.) Letter from J. Curtatone to Luz Henriquez, dated February 24, 2010, Setting forth dates City made conditional offers of employment to Twelve (12) firefighter appointees, all of which were after September 30, 2009;
- 13.) Civil Service eligible list for Somerville firefighter showing order of names as of September 30, 2009;
- 14.) Copy of Personnel Administration Rules ("PAR"), PAR.08 and PAR.09, setting forth twelve (12) week life of public safety certification and 2n+1 rule.

JOSEPH A CURTATONE, MAYOR  
 SOMERVILLE FIRE DEPT  
 93 HIGHLAND AVE.  
 SOMERVILLE 02143

*Return to  
 Human Resources Division*

LOCATION: SOMERVILLE  
 9 PERMANENT RESERVE FIREFIGHTERS  
 SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT

				Applicant Status				
Name and address of Applicant Notified to Report for Interview	Eligibility Expires	Rank	FAILED TO RESPOND	DECLINED APPOINTMENT	OTHER REPORT (STATE BELOW)	WILLING TO ACCEPT	SELECTED FOR APPOINTMENT	
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment JONES, WILLIAM J * [REDACTED ADDRESS] Applicant's Signature: <i>William J Jones</i>	12/01/10	TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment MCINNIS, KEITH M * [REDACTED ADDRESS] Applicant's Signature: <i>Keith M McInnis</i>	12/01/10	TIE END						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment CASEY, JOHN P * [REDACTED ADDRESS] Applicant's Signature: <i>John P Casey</i>	12/01/10							
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment CLARK, CHRISTOPH P * [REDACTED ADDRESS] Applicant's Signature: <i>Christoph P Clark</i>	12/01/10	TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment GASPARINI, CHRISTOPHER * [REDACTED ADDRESS] Applicant's Signature: <i>Christopher Gasparini</i>	12/01/10	TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment LEONE, MARK A * [REDACTED ADDRESS] Applicant's Signature: <i>Mark A Leone</i>	12/01/10	TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment P'BRIEN, SHAUN M * [REDACTED ADDRESS] Applicant's Signature: <i>Shaun M P'Brien</i>	12/01/10	TIE END						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment FARINO, JR, DAVID * [REDACTED ADDRESS] Applicant's Signature: <i>David Farino Jr</i>	12/01/10	TIE						
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment JEFFRES, PHILLIP J * [REDACTED ADDRESS] Applicant's Signature: _____	12/01/10	TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment O'CONNOR, JOHN C <i>on behalf of my son</i> * [REDACTED ADDRESS] Applicant's Signature: <i>John O'Connor</i>	12/01/10	TIE						
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment PATRICK, HALLORAN * [REDACTED ADDRESS] Applicant's Signature: _____	12/01/10	TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment RADOCHIA, DAVID L * [REDACTED ADDRESS] Applicant's Signature: <i>David Radochia</i>	12/01/10	TIE END						

COMPTROLLER OF MASS. REVENUE  
 CIVIL SERVICE UNIT  
 AUG 24 2 29 PM '09

TITLE CODE: 0081A  
 CERTIFICATION NUMBER: 290251  
 SOMERVILLE FIRE DEPT

JOSEPH A CURTATONE, MAYOR  
 SOMERVILLE FIRE DEPT  
 93 HIGHLAND AVE.  
 SOMERVILLE 02143

LOCATION: SOMERVILLE  
 9 PERMANENT RESERVE FIREFIGHTERS  
 SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT

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<input checked="" type="checkbox"/>	RESIDENT	EPPS, LAWRENCE P	*	12/01/10						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	LAYTON, SEAN S		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	RYKERSON, DYLAN		12/01/10 TIE END						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	CHANG, ANDREW		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input type="checkbox"/>	RESIDENT	COSTA, DANIEL M		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	GALVIN, ROBERT A		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	LAYTON, RYAN P		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	MCKENZIE, JAY W		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	MEDEIROS, THOMAS A		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input type="checkbox"/>	RESIDENT	NEAL, RICHARD P		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input checked="" type="checkbox"/>	RESIDENT	NOONAN, BRENDAN C		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						
<input type="checkbox"/>	RESIDENT	O'HEARN, JR., TIMOTHY M		12/01/10 TIE						
[REDACTED ADDRESS]				Applicant's Signature: [Signature]						

2009 APR 21 P 2:29  
 CIVIL SERVICE DIVISION  
 STATE OF MASSACHUSETTS

JOSEPH A CURTATONE, MAYOR  
 SOMERVILLE FIRE DEPT  
 93 HIGHLAND AVE.  
 SOMERVILLE 02143

LOCATION: SOMERVILLE

9 PERMANENT RESERVE FIREFIGHTERS

SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT

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				FAILED TO RESPOND	DECLINED APPOINTMENT	OTHER REPORT (STATE BELOW)	WILLING TO ACCEPT	SELECTED FOR	
<input checked="" type="checkbox"/>	RESIDENT OLIVER, WILL F [REDACTED]	12/01/10 TIE							
<input checked="" type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							
<input checked="" type="checkbox"/>	RESIDENT PANTANELLA, DAVID A [REDACTED]	12/01/10 TIE							
<input checked="" type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							
<input type="checkbox"/>	RESIDENT PATRIQUIN, ANDREW J [REDACTED]	12/01/10 TIE							
<input type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							
<input type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							
<input type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							
<input type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							
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<input type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							
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<input type="checkbox"/>	I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature: [Signature]							

COMPLAINTS  
 CIVIL SERVICE  
 AUG 21 2009  
 APPLICATION IS VOID IF NOT SIGNED WITHIN 7 DAYS FROM THE DATE OF RECEPTION UNLESS AN EXTENSION IS IN WRITING AND APPROVED.



CITY OF SOMERVILLE, MASSACHUSETTS

MATTHEW J. BUCKLEY  
Acting Director of Personnel

~~July 27, 2009~~

Luz Henriquez, Director  
Public Safety Certifications  
Human Resources Division  
One Ashburton Place  
Boston, MA 02108

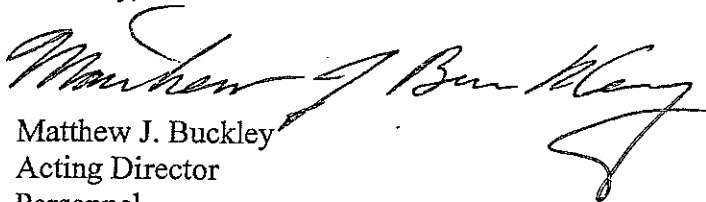
Dear Ms. Henriquez:

~~The City of Somerville respectfully requests an extension date for the return of Certification No. 290251 dated 05/06/09, for 9 Permanent Reserve Firefighters.~~ In light of anticipated cuts to the fiscal budget, the City had taken no actions taken during the time this certification was issued and its closing date.

~~However, the City was able to pass a balanced FY10 budget without layoffs in the fire department and we would like to proceed with creating a reserve list.~~ At least one person on the list, currently serving in the military, has been offered a position conditionally. Moreover, there are currently four involuntary retirements pending a medical review panel and 27 firefighters eligible for full retirement during FY10.

If you have any questions, please feel free to call me at 617-625-6600 x3310. Thank you in advance, for your consideration in this matter.

Sincerely,

  
Matthew J. Buckley  
Acting Director  
Personnel

Via Fax and U. S. Mail





CITY OF SOMERVILLE, MASSACHUSETTS  
MATTHEW J. BUCKLEY  
DIRECTOR OF PERSONNEL

July 29, 2009

Ms. Luz Henriquez  
Civil Service Division  
Human Resources Dept.  
One Ashburton Place  
Boston, MA 02108

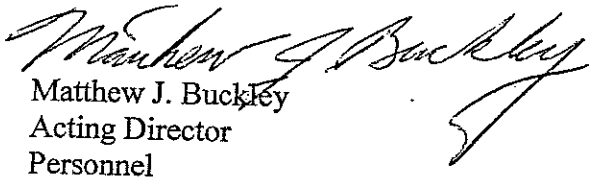
Re: Certification #290251

Dear Ms. Henriquez:

~~On July 27, 2009, the City of Somerville requested an extension for Certification #290251 for 9 Permanent Reserve Firefighters. At this time, the City would like to rescind its request and at this time, take no action.~~

If you have any questions regarding our request, please feel free to call me at 617-625-6600 x3310.

Sincerely,

  
Matthew J. Buckley  
Acting Director  
Personnel





CITY OF SOMERVILLE, MASSACHUSETTS  
PERSONNEL DEPARTMENT  
JOSEPH A. CURTATONE  
MAYOR

JESSIE C. BAKER  
DIRECTOR OF PERSONNEL

August 21, 2009

Ms. Luz Henriquez  
Civil Service Division  
Human Resources Dept.  
One Ashburton Place  
Boston, MA 02108

Re: Certification #290251

Dear Ms. Henriquez:

As a follow up to our letter to you dated July 29, 2009, I am enclosing the original certification with signatures. Also enclosed, please find a letter from Patrick Halloran which he faxed to this office on May 18, 2009 expressing his intention to pursue employment with the City of Somerville once released from active duty in the U. S. Army.

To reiterate, at this time the City of Somerville wishes to take no action on certification #290251. If you have any further questions, please feel free to call me at 617-625-6600 x3300.

Sincerely,

Jessie C. Baker  
Director of Personnel

2009 AUG 24 P 2:29  
COMM OF MASS  
HUMAN RESOURCES DIVISION  
CIVIL SERVICE UNIT



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 3300 • TTY: (617) 666-0001 • FAX: (617) 666-4426  
EMAIL: [personnel@somervillema.gov](mailto:personnel@somervillema.gov) • [www.somervillema.gov](http://www.somervillema.gov)



*Return to  
 Human Resources Division*

LOCATION: SOMERVILLE  
 9 PERMANENT RESERVE FIREFIGHTERS  
 SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT

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JONES, WILLIAM J * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE		William Jones
MCINNIS, KEITH M * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE END		Kate M. McInnis
CASEY, JOHN P * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10		John Casey
CLARK, CHRISTOPH P * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE		Christoph Clark
GASPARINI, CHRISTOPHER * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE		Christopher Gasparini
LEONE, MARK A * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE		Mark Leone
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JEFFRES, PHILLIP J * RESIDENT [REDACTED] <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE		
O'CONNOR, JOHN * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE		John O'Connor
PATRICK, HALLORAN * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE		SEE FAX
RADOCHIA, DAVID L * RESIDENT [REDACTED] <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	12/01/10 TIE END		David Radochia

HUMAN RESOURCES DIVISION  
 2010 FEB 26 12:16

00243  
HRD



LOCATION: SOMERVILLE  
 9 PERMANENT RESERVE FIREFIGHTERS  
 SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT

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<input checked="" type="checkbox"/> RESIDENT I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	COSTA, DANIEL M [REDACTED]	12/01/10 TIE							
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<input type="checkbox"/> RESIDENT I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	NEAL, RICHARD P [REDACTED]	12/01/10 TIE							
<input checked="" type="checkbox"/> RESIDENT I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	NOONAN, BRENDAN C [REDACTED]	12/01/10 TIE							
<input checked="" type="checkbox"/> RESIDENT I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	O'HEARN, JR., TIMOTHY M [REDACTED]	12/01/10 TIE							

00242  
HRD

TITLE CODE: 0081A  
 CERTIFICATION NUMBER: 290651  
 SOMERVILLE FIRE DEPT

JOSEPH CURTATONE - MAYOR  
 SOMERVILLE FIRE DEPT  
 93 HIGHLAND AVE.  
 SOMERVILLE 02143

LOCATION: SOMERVILLE  
 9 PERMANENT RESERVE FIREFIGHTERS  
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<input checked="" type="checkbox"/> RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment PANTANELLA, DAVID A [REDACTED ADDRESS]	12/01/10	TIE					
<input type="checkbox"/> RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment PATRIQUIN, ANDREW J [REDACTED ADDRESS]	12/01/10	TIE END					
<input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment							
<input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment 12/02/2009							
<input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment							
<input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment							
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<input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment							
<input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment							

00241  
 HRD

The Commonwealth of Massachusetts  
Human Resources Division, Civil Service Unit  
One Ashburton Place  
Boston, MA 02108

Telephone (617) 727-3777  
Toll Free within MA: 1-800-392-6178  
Fax: (617) 727-0399  
TDD: (617) 878-9762

### Civil Service Requisition (Form 13)

Do not use this Form for transfer (use Form 9) or for reinstatement (use Form 10)

290657

Please complete the following information.

City/Town or State Agency: Somerville Date: August 17 2009

Department: FIRE

Division: \_\_\_\_\_

Mailing Address: City Hall Personnel Office 93 Highland Avenue

City: SOMERVILLE State: MA Zip Code: 02143 County or location of job: Middlesex

Phone: 617-625-6600 x3300 Fax: 617-666-4426 Email: jbaker@somervillema.gov

RECEIVED  
JUL 06 2010

BY:

Please select (✓) an option and complete the requested information below:

To the Personnel Administrator:

I hereby certify that I have the power of appointment and that there are no employees entitled to reinstatement in this position (General Laws, Chapter 31, Section 39) and therefore call for a requisition as follows:

I request an EXAMINATION as described on the reverse side.

83900800

**XXX** I request a CERTIFICATION from an existing:  Open Competitive  Departmental Promotional, eligible list  
 Reserve List

Position Title: Fire Fighter Title Code: 0081A Level/Grade: \_\_\_\_\_

Salary Range: \_\_\_\_\_ Number of Vacancies: Nine Closing Date: \_\_\_\_\_

Status Type (check one): **XXX** Permanent  Temporary  Military Substitute

Employment Type (check one): Full Time  Part Time  Reserve **XXX** Intermittent

Date Employment to Begin: upon certification If temporary, employment end date: \_\_\_\_\_

Other Requirements: \_\_\_\_\_  
(for example: unusual hours, driver's license, etc.)

An updated Position Description Form (Form 30) must be on file with the Human Resources Division or must be attached to this requisition.

Form 30 attached:  Form 30 already on file: **XX** Date Form 30 filed: \_\_\_\_\_

Do you require an alternative or selective certification? If yes, please check the box that applies below.

Number of vacancies to be filled using PAR. 10: \_\_\_\_\_ Female: \_\_\_\_\_ Minority: \_\_\_\_\_

Please note that PAR. 10 Minority certification may not be utilized for entry level appointments in departments subject to NAACP or Castro consent decrees. PAR. 10 may be requested for promotional titles.

Selective Certification: Gender: \_\_\_\_\_ EMT: \_\_\_\_\_ Bilingual: \_\_\_\_\_ specify language: \_\_\_\_\_

For a Labor Service position: If heavy work, check box:  If the position is in Class II or III, see reverse side.

Any information, certification, or proposed action on the reverse side is included in this requisition with the approval of the undersigned.

Signature of the person authorized by law to make appointments.

Joseph A. Curtatone, Mayor  
Typed name, title and date

Interviewer/Contact: Name and title. Give the full address of the location where the interviews are to be held.

**Jessie Baker, Director of Personnel City Hall 93 Highland Ave Somerville MA 02143**

Appointing Authorities requiring certification and approval of appointees prior to a specific Recruit Training Academy date are reminded that they must allow adequate time for completion and audit of the appointments.

If slots have been reserved in a Recruit Training Academy for projected appointees from this requisition, please indicate the proposed academy date: \_\_\_\_\_ (Informational Purposes Only)

(Please complete all applicable information on reverse side)

TITLE CODE: 0081A  
 CERTIFICATION NUMBER: 290651  
 SOMERVILLE FIRE DEPT

MINOR FINALS APPOINTMENTS AT P.M.  
 MEETING OF 2/11/10

JOSEPH CURTATONE - MAYOR  
 SOMERVILLE FIRE DEPT  
 93 HIGHLAND AVE.  
 SOMERVILLE 02143

DATE: 09/09/2009 PAGE: 1

LOOPY

LOCATION: ~~SOMERVILLE~~

~~PERMANENT RESERVE FIREFIGHTERS~~

~~SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT~~

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RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment MCINNIS, KEITH M * [REDACTED]	12/01/10 TIE END						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment CASEY, JOHN P * [REDACTED]	12/01/10						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment CLARK, CHRISTOPH P * [REDACTED]	12/01/10 TIE						
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment GASPARINI, CHRISTOPHER * [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment LEONE, MARK A * [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment O'BRIEN, SHAUN M * [REDACTED]	12/01/10 TIE END						
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment JEFFRES, PHILLIP J * [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment O'CONNOR, JOHN C. <i>On behalf of son.</i> * [REDACTED]	12/01/10 TIE						
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment PATRICK, HALLORAN * [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment RADOCHIA, DAVID L * [REDACTED]	12/01/10 TIE END						

JOSEPH CURTATONE - MAYOR  
 SOMERVILLE FIRE DEPT  
 93 HIGHLAND AVE.  
 SOMERVILLE 02143


LOCATION: SOMERVILLE  
 9 PERMANENT RESERVE FIREFIGHTERS  
 SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT

	Name and address of Applicant Notified to Report for Interview	Eligibility Expires	Rank	Applicant Status				
				FAILED TO RESPOND	DECLINED APPOINTMENT	OTHER REPORT (STATE BELOW)	WILLING TO ACCEPT	SELECTED FOR
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	EPPS, LAWRENCE P [REDACTED]	12/01/10						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	LAYTON, SEAN S [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	RYKERSON, DYLAN [REDACTED]	12/01/10 TIE END						
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	CHANG, ANDREW [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	COSTA, DANIEL M [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	GALVIN, ROBERT A [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	LAYTON, RYAN P [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	MCKENZIE, JAY W [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	MEDEIROS, THOMAS A [REDACTED]	12/01/10 TIE						
RESIDENT <input type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	NEAL, RICHARD P [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	NOONAN, BRENDAN C [REDACTED]	12/01/10 TIE						
RESIDENT <input checked="" type="checkbox"/> I WILL accept the appointment <input type="checkbox"/> I WILL NOT accept the appointment	O'HEARN, JR., TIMOTHY M [REDACTED]	12/01/10 TIE						

LOCATION: SOMERVILLE

9 PERMANENT RESERVE FIREFIGHTERS

SELECTION MUST BE OF 9 OF THE FIRST 19 HIGHEST WHO WILL ACCEPT

	Name and address of Applicant Notified to Report for Interview	Eligibility Expires	Rank	Applicant Status				
				FAILED TO RESPOND	DECLINED APPOINTMENT	OTHER REPORT (STATE BELOW)	WILLING TO ACCEPT	SELECTED FOR
<input type="checkbox"/> RESIDENT	OLIVER, WILL F [REDACTED]	12/01/10	TIE					
<input type="checkbox"/> I WILL accept the appointment	<input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature:-						
<input checked="" type="checkbox"/> RESIDENT	PANTANELLA, DAVID A [REDACTED]	12/01/10	TIE					
<input checked="" type="checkbox"/> I WILL accept the appointment	<input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature:- 						
<input type="checkbox"/> RESIDENT	PATRIQUIN, ANDREW J [REDACTED]	12/01/10	TIE END					
<input type="checkbox"/> I WILL accept the appointment	<input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature:-						
<input type="checkbox"/> I WILL accept the appointment	<input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature:-						
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<input type="checkbox"/> I WILL accept the appointment	<input type="checkbox"/> I WILL NOT accept the appointment	Applicant's Signature:-						

12/02/2009



CITY OF SOMERVILLE, MASSACHUSETTS

JOSEPH A. CURTATONE

MAYOR

December 24, 2009

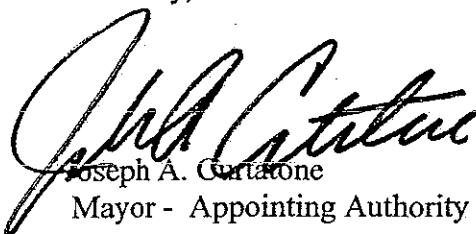
Luz Henriquez, Director  
Public Safety Certifications  
Human Resources Division  
One Ashburton Place  
Boston, MA 02108

Dear Ms. Henriquez:

The City of Somerville respectfully requests an extension date for the return of Certification No. 290651 dated 09/09/09, for 9 Permanent Reserve Firefighters. The City is currently in the final stages of the interview process and will be finalizing this certification by the beginning of next year.

Thank you for your consideration in this matter.

Sincerely,

  
Joseph A. Curtatone  
Mayor - Appointing Authority

2010 FEB 11 A 11:01  
CITY OF MASS  
HUMAN RESOURCES DIVISION  
CIVIL SERVICE UNIT



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2100 • TTY: (617) 666-0001 • FAX: (617) 625-3434  
EMAIL: Mayor@somervillema.gov • www.somervillema.gov





## CITY OF SOMERVILLE, MASSACHUSETTS

JOSEPH A. CURTATONE

MAYOR

February 8, 2010

Luz Henriquez, Director  
Public Safety Certifications  
Human Resources Division  
One Ashburton Place  
Boston, MA 02108

Dear Ms. Henriquez:

The City of Somerville respectfully requests an extension date for the return of Certification No. 290651 dated 09/09/09, for 9 Permanent Reserve Firefighters. The City previously requested this extension on December 24, 2009. The City is currently in the final stages of the interview and appointment process and will be finalizing this certification in the next several weeks.

Thank you for your consideration in this matter. If you have any questions, please feel free to contact the Director of Personnel, Jessie Baker, at (617) 625-6600 ext. 3310.

Sincerely,

Joseph A. Curtatone, Mayor  
Appointing Authority

2010 FEB 11 A 11:01

COMM OF MASS  
HUMAN RESOURCES DIVISION  
CIVIL SERVICE UNIT



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2100 • TTY: (617) 666-0001 • FAX: (617) 625-3434  
EMAIL: Mayor@somervillema.gov • www.somervillema.gov





Sent: 6:23 PM 2/23/10



## CITY OF SOMERVILLE, MASSACHUSETTS

JOSEPH A. CURTATONE  
MAYOR

February 24, 2010

Luz Henriquez, Director  
Public Safety Certifications  
Human Resources Division  
One Ashburton Place  
Boston, MA 02108

Dear Ms. Henriquez:

The City of Somerville respectfully requests an extension date for the return of Certification No. 290651 dated 09/09/09, for 9 Permanent Reserve Firefighters. The City requests an extension until April 1, 2010.

The reason for the extension is that one of the candidates had a two month delay due to military deployment, during the processing of his application. No additional names are needed at this time. Conditional offers of employment have been made to ten candidates, plus two active duty military candidates. The City is going forward with the appointment process at this time.

Thank you for your attention in this matter.

Sincerely,

Joseph A. Curtatone, Mayor  
Appointing Authority



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2100 • TTY: (617) 666-0001 • FAX: (617) 625-3434  
EMAIL: Mayor@somervillema.gov • www.somervillema.gov



Commonwealth of Massachusetts

Suffolk, ss.

Civil Service Commission

SEAN P. O'BRIEN,                    )  
   Appellant                            )  
   ) )  
 v.                                        )  
   ) )  
 CITY OF SOMERVILLE;            )  
 HUMAN RESOURCES                )  
 DIVISION,                            )  
  Respondents                        )

Docket No.:

COMMONWEALTH OF MASS  
CIVIL SERVICE COMMISSION

2010 JUN 17 P 9:41

RECEIVED

APPEAL FOR EQUITABLE RELIEF PURSUANT TO CHAPTER 534 OF THE ACTS OF 1976 AS AMENDED BY CHAPTER 310 OF THE ACTS OF 1993.

Appellant hereby asserts that his rights under M.G.L. c. 31 have been prejudiced through no fault of his own; and he has been deprived of the opportunity to be fully and fairly considered for appointment to the position of firefighter in the city of Somerville, in violation of the basic merit principles specifically enumerated in M.G.L. c. 31, s.1.

Appellant further asserts that the action(s) of the city of Somerville ("city") and the decision, action or inaction of the personnel administrator of the human resources division ("HRD"), have deprived him of his statutory preference as a disabled veteran, in violation of M.G.L. c. 31, s. 26.


Appellant herewith submits relevant facts in support of this appeal, as set forth in the attached supplement.

I hereby certify that I have sent a copy of this appeal to the personnel administrator and the appointing authority within three days from the filing of this appeal.

Sean P. O'Brien

Appellant

By:

A handwritten signature in black ink, appearing to read 'A. R. Puglia', written over a horizontal line.

ANDREW R. PUGLIA

Authorized Representative

Dated: 6/17/2010

Commonwealth of Massachusetts

Suffolk, ss

Civil Service Commission

Sean P. O'Brien, )  
Appellant )  
v. )  
City of Somerville; )  
Human Resources )  
Division, )  
Respondents )

APPELLANT'S SUPPLEMENTAL STATEMENT TO APPEAL FORM

On September 11, 2009, Appellant took the civil service military makeup entrance examination for firefighter/cities and towns, in accordance with the provisions of M.G.L. c. 31. Appellant had returned to the Commonwealth with this wife and one year-old daughter on August 15, 2009, after having just completed his second tour of duty in Iraq as a member of the United States Marine Corps.

On September 30, 2009, Appellant's examination score was available on the HRD Web site. On October 15, 2009, HRD notified Appellant that his examination score had placed him fourth on the then-existing eligible list for firefighter in the city. On November 15, 2009, HRD notified Appellant that his military disability status had been approved and, as a result, he had moved to number one on the city's firefighter eligible list.

On September 9, 2009, just two days before Appellant took his military makeup examination, HRD forwarded the city certification #290651 in response to the city's requisition seeking the names of eligible candidates for the appointment of nine persons to the position of permanent, reserve firefighter. On December 24, 2009, the city requested and HRD approved an extension of this certification.

The Somerville city charter ("charter"), chapter 244 of the acts and resolves of 1899, as amended, establishes the authority of the city government to act in certain public matters. The allocation of the legislative and executive powers are specifically set forth therein. Paragraph 1 of section 17 of title 3 of the charter states that, "**All appointments required by law to be made by the mayor and aldermen shall be made by the mayor, subject to confirmation by the board of aldermen.**" (Emphasis added.) Section 21 of title 4 of the charter states, in relevant part, "**The mayor shall have the power to appoint, subject to confirmation by the board of aldermen... a chief engineer and all other officers and members of the fire department....**" (Emphasis added.)

On December 10, 2009, the mayor submitted the name of Jason Ruf, to the city's board of aldermen ("BOA") for confirmation to the position of full-time, permanent firefighter. The BOA at that same meeting confirmed his appointment. Ruf had ostensibly been confirmed by the BOA as a permanent, reserve firefighter on November 12, 2009. His appointment had been initially submitted by the mayor to the BOA for confirmation on February 23, 2009. The eligible list upon which Ruf's name had been drawn expired in or about December 1, 2008. It was this clearly unlawful appointment, inexplicably ratified by HRD, which triggered Appellant's deep concern about his status as the top candidate on the then-existing eligible list.

Because Appellant did not understand why Ruf had been appointed to a firefighter position for which Appellant reasonably believed he should have received consideration, Appellant immediately wrote a letter to the mayor and requested a face-to-face meeting to determine his status for appointment as a firefighter. This letter was sent to the mayor on January 20, 2010. The mayor did not respond to Appellant's letter. Instead, on February 11, 2010, he submitted to the BOA, the names of ten candidates for appointment to the reserve fire force, all of whom were placed below Appellant on the

eligible list; and seven of whom were non-veterans.

In a second attempt to preserve his rights as the top candidate on the firefighter eligible list, Appellant hand-delivered a letter to the BOA requesting that they defer confirmation of the ten candidates who were placed below Appellant on the eligible list until the mayor requested a supplemental certification which would add his name to the list of proposed appointees. Acting in lock step with their mayor the BOA confirmed the ten appointments on February 25, 2010.

In a last-ditch effort to obtain the full and fair consideration of his candidacy for appointment to which Appellant reasonably believed he was entitled pursuant to M.G.L. c. 31, Appellant wrote to the personnel administrator on March 4, 2010, requesting that he withhold his approval of the February 25 appointments. Appellant further requested that the personnel administrator issue, **sua sponte**, a supplemental certification to the city containing Appellant's name as the top candidate for appointment based upon his position on the eligible list. The personnel administrator declined to take such action.

Respondent city's failure to request an updated or supplemental certification containing Appellant's name as the candidate holding the first position on the eligible list, despite having actual knowledge of his standing on the list at least one month before final action by the BOA confirming the ten lower-placed candidates, constitutes a constructive bypass for which Appellant is without a remedy under M.G.L. c. 31.

Further, HRD had actual knowledge of Appellant's position on the eligible list at least three and very likely four months before the city took final action to confirm the ten lower-placed candidates. Because HRD possessed this critical information, which was also readily available to the city through the HRD Web site at the same time, HRD should not have approved the city's request for an extension of the initial certification. Rather, HRD should have required the city to submit a new requisition. This simple yet wholly justified act by HRD would have ensured that Appellant's name, as the top candidate on the eligible list, appeared on any subsequent certification sent to the city.

Inasmuch as Appellant has been constructively bypassed in favor of

candidates who now occupy positions on the reserve fire force, even if Appellant is subsequently appointed to the reserve force he will have to await appointment to any permanent, full-time firefighter position until **all** of the current reserve force members are first appointed, pursuant to the requirements of M.G.L. c. 31, ss. 60. This anomaly will occur despite the fact that the name of every such reserve fire force member appeared below Appellant on the eligible list. Such a result contravenes the purpose and intent of the veteran's preference law as set forth in M.G.L. c. 31, s. 26 and deprives Appellant of the preference to which he is lawfully entitled

Sean P. O'Brien,  
Appellant  
By:



ANDREW R. PUGLIA  
Authorized Representative  
158 Powder House Blvd.  
Somerville, MA 02144  
Tel: (857) 523-8227  
Fax: (978)526-9078  
Email: [arpuglia@hotmail.com](mailto:arpuglia@hotmail.com)

### **CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the within appeal and supplemental statement, upon the Respondent personnel administrator and the Respondent city of Somerville, by placing the same in the United States Mail, postage prepaid and properly addressed to: Paul Dietl, Chief Human Resources Officer, Human Resources Division, One Ashburton Place, Boston, MA 02108 and to Mayor Joseph Curtatone, City Hall, 93 Highland Avenue, Somerville, MA 02143.

Commonwealth of Massachusetts

Suffolk, ss.

Civil Service Commission

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SEAN P. O'BRIEN,  
Appellant

v.

Case No. E-10-139

CITY OF SOMERVILLE;  
HUMAN RESOURCES  
DIVISION,  
Respondents

APPELLANT'S REVISED PRE-HEARING SUBMISSION  
PURSUANT TO 801 CMR 10(a)

Now comes the Appellant in the above-entitled matter, Sean P. O'Brien, and proposes the following as his submission in accordance with 801 CMR 10(a):

**(a) Motions/Discovery**

(i) Appellant will be filing a global motion for the issuance of subpoena(s) for the compelled testimony of the listed witnesses whom he believes to be hostile, as well as the record keepers set forth;

(ii) Upon completion of all discovery, Appellant intends to file a motion for summary decision as well as a motion requesting the civil service commission to conduct an investigation of all reserve fire force appointments pursuant to M.G.L. chapter 31, section 2;

(iii) Appellant will also seek, through discovery: (a) the names and ranks of the police investigators who conducted the background investigations of the firefighter candidates appointed to the reserve fire force since 2008, (b) copies of the unredacted resumes of the ten candidates who were appointed to the reserve fire force on February 25, 2009, (c) copies of the statements affirming claim of residence preference executed by every such candidate under the penalties of perjury, as well as the statement for Patrick A. Casey, who was appointed a permanent, reserve firefighter on November 17, 2008 according to city records.



**(b) Agreed Facts**

(i) Appellant held the number one position on the eligible list from which the board of aldermen ("BOA") confirmed the mayor's ten appointments to the reserve fire force on February 25, 2009;

(ii) certification # 290651, dated September 9, 2009, from which the city made said appointments, was originally issued by HRD on May 6, 2009, in response to the city's requisition seeking names of eligible candidates for the purpose of making nine appointments of permanent, reserve firefighters;

(iii) HRD granted the city's December 24, 2009 request for an extension of certification # 290651, despite having actual knowledge that Appellant had been placed at the top of said eligible list in or about November 1, 2009;

(iv) in or about November 25, 2008, the mayor submitted to BOA, the name of Jason Ruf ("Ruf"), to be a permanent, reserve firefighter and subsequently forwarded a Form 14 to HRD indicating that Ruf had been employed as of that date;

(v) in or about February 23, 2009, the mayor submitted Ruf's name to the BOA for his confirmation as a permanent, reserve firefighter;

(vi) Ruf was not confirmed by the BOA as a permanent, reserve firefighter until November 12, 2009;

(vii) under the provisions of the city's charter, the mayor appoints, subject to confirmation by the BOA, all firefighters in the city;

(viii) no candidate for appointment to the city's fire department is finally employed; nor may he or she receive any compensation or emolument of any kind from the city treasury, unless and until the BOA has confirmed his or her appointment;

(ix) the eligible list from which Ruf's name was drawn expired in or about December 1, 2008;

(x) in or about February 23, 2009, the mayor forwarded a second Form 14 to HRD but this time he indicated Ruf had been appointed on that date.

**(c) Witnesses:**

- i) Sean P. O. Brien;
- ii) Mayor Joseph Curtatone
- ii) Kevin Kelliher, chief engineer  
Somerville fire department
- iii) Matthew Buckley,

- Former acting director,  
Somerville personnel department
- iv) Jessie Baker,  
Somerville personnel director;
- v) Patrick Casey;
- vi) FF Robert A. Galvin, Jr;
- vii) Ret. FF Robert A. Galvin, Sr.;
- viii) Nanci Galvin;
- ix) Ret. FF Joseph J. Galvin;
- x) FF Ryan Layton;
- xi) FF Sean P. Layton;
- xii) FF Kenneth Layton
- xiii) FF Stephen Layton;
- xiv) FF Jay W. McKenzie;
- xv) Stewart McKenzie;
- xvi) Cynthia McKenzie;
- xvii) Gayle A. Mantia;
- xviii) Raymond A. Snow;
- xix) John Long,  
Somerville city clerk
- xx) Keeper of the Records,  
Melrose Election Commission;
- xxi) Keeper of the Records,  
Melrose Collector of Taxes;
- xxii) Keeper of the Records  
Vital Statistics Division  
Secretary of the Commonwealth;
- xxiii) Mario Oliveira,  
Somerville police department;
- xxiv) Alderman Sean O'Donovan;
- xxv) Alderman John Connolly;
- xxvi) Alderman Robert Trane;
- xxvii) Alderman Bruce Desmond;
- xxviii) Alderman William Roche;
- xxix) Keeper of the records,  
Somerville Election Commission;
- xxx) Keeper of the Records,  
Somerville fire department;
- xxxi) Capt. Jay Keane,

Somerville fire department;  
xxxii) John F. Keane;  
xxxiii) Mary T. Keane;  
xxxiv) Kristen M. Gallagher;  
xxxv) Deborah Anne Forristall

Other than himself, Appellant anticipates none of the above-listed witnesses will appear voluntarily but will appear at the Civil Service Commission hearing in this matter, only if they are under compulsory process. Consequently, Appellant will be filing appropriate motion(s) seeking the issuance of subpoenas to compel their testimony and document production.

**(d) Issues**

(i) whether the failure of the city of Somerville ("city") to request an updated or supplemental certification from HRD, despite having actual knowledge that Appellant was number one on the eligible list months before the city took final action approving the ten lower-placed candidates to the reserve fire force, constitutes a constructive bypass;

(ii) whether the human resources division ("HRD") action granting the city's December 24, 2009 request to extend certification # 290651, in view of its actual knowledge that Appellant was number one on the eligible list and the fact that the city had already had twenty-four weeks to process certification #290651, constitutes an abuse of its discretion;

(iii) whether the city intentionally failed to investigate the residency preference claims of certain politically favored candidates who have been appointed permanent, reserve firefighters and whose residency preference claims are false and fraudulent, thereby prejudicing Appellant's rights for consideration for appointment to the reserve fire force.

**(e) Hearing Dates**

Appellant is amendable to any dates for hearing after July 26, 2010.

**(f) Other Matters**

None.

SEAN P. O'BRIEN

By:

ANDREW R. PUGLIA

Authorized Representative

158 Powder House Boulevard

Somerville, MA 02144

Tel: (857) 523-8227

Fax: (978) 526-7098

Email: [arpuglia@hotmail.com](mailto:arpuglia@hotmail.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the within REVISED SUBMISSION UNDER 801 CMR 10(a), upon the Respondent HRD and the Respondent city of Somerville, by delivering the same in hand, to: Elizabeth Whitcher, Esq., Assistant General Counsel, HRD, One Ashburton Place, Boston MA 02108 and to Robert Collins, Esq., Assistant City Solicitor, City Hall, 93 Highland Avenue, Somerville, MA 02143.

\_\_\_\_\_  
ANDREW R. PUGLIA

Authorized Representative

Dated: \_\_\_\_\_

August 1, 2010

Civil Service Commission  
One Ashburton Place  
Room 503  
Boston, MA 02108

Attn: Medes J. Diaz,  
Administrative Assistant  
Re: O'Brien v. Somerville &  
HRD  
Case No. E-10-139

Dear Ms. Diaz:

You will find enclosed Appellant's: (1) MOTION TO AMEND APPEAL  
and (2) AFFIDAVIT IN SUPPORT OF MOTION.

Please docket the same and return the date-stamped copies in the enclosed  
stamped, self-addressed envelope.

Thank you for your courtesy and cooperation in this matter.

Sincerely,  
Sean P. O'Brien  
By:

ANDREW R. PUGLIA  
158 Powder House Blvd.  
Somerville, MA 02144  
Tel: (857) 523-8227  
Fax: (978) 526-7098  
Email: [arpuglia@hotmail.com](mailto:arpuglia@hotmail.com)

cc: Sean P. O'Brien  
E. Witcher, Esq.  
R. Collins, Esq.

Commonwealth of Massachusetts

Suffolk, ss

Civil Service Commission

SEAN P. O'BRIEN, )  
Appellant )  
v. )  
CITY OF SOMERVILLE; )  
and HRD, )  
Respondents )

Case No. E-10-139

**APPELLANT'S MOTION TO AMEND APPEAL**

Now comes the Appellant in the above-entitled matter and moves this commission to amend his appeal to add three (3) claims for relief.

As reasons therefore, Appellant states that, based upon recently discovered records and information which, at the time of filing of his appeal he did not know existed, Appellant has a reasonable basis to believe he is aggrieved and his rights have been prejudiced, through no fault of his own:

- 1.) by the Respondent City's violation of PAR.09 in failing to maintain at all relevant and material times, the names of not less than twenty-five (25) eligible candidates on certification #290651, from which it notified HRD of its intention to appoint twelve (12) candidates who were situated lower on the eligible list than Appellant;
- 2.) by the Respondent City's violation of PAR.08 in its failure to obtain written approval from Respondent HRD as a fundamental prerequisite to the extension of the life of certification # 290651 prior to its scheduled expiration;
- 3.) by Respondent HRD's processing, of all relevant papers, seeking to validate the above-referenced permanent, reserve and thereafter, permanent, full-time firefighter appointments, all in violation of PAR.08 and PAR.09.

In support of his motion, Appellant submit's the attached affidavit and exhibits annexed hereto and made a part hereof.

Respectfully submitted,  
SEAN P.O'BRIEN  
Appellant  
By:

ANDREW R. PUGLIA  
Authorized Representative  
158 Powder House Boulevard  
Somerville, MA 02144  
(857) 523-8227  
Fax: (978) 526-7098  
Email: [arpuglia@hotmail.com](mailto:arpuglia@hotmail.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the within (1) MOTION TO AMEND APPEAL, (2) AFFIDAVIT IN SUPPORT OF MOTION, upon the Respondent, personnel administrator and the Respondent, City of Somerville, by placing the same in the United States Mail, postage prepaid and properly addressed to: Elizabeth Witcher, Esq., Office of the General Counsel, Human Resources Division, One Ashburton Place, Boston, MA 02108 and to Robert Collins, Esq., Chief Labor Counsel, City of Somerville, City Hall, 93 Highland Avenue, Somerville, MA 02143.

Sean P. O'Brien  
By:

Andrew R. Puglia  
Authorized Representative

Dated: \_\_\_\_\_

Commonwealth of Massachusetts

Suffolk, ss

Civil Service Commission  
Case No E-10-139

**AFFIDAVIT OF ANDREW R. PUGLIA IN SUPPORT OF  
APPELLANT'S MOTION TO AMEND APPEAL**

I, Andrew R. Puglia, on oath depose and state the following to be true, of my personal knowledge:

1.) I am a resident of 158 Powder House Boulevard, Somerville, MA, and the authorized representative of the Appellant, Sean P. O'Brien, in the instant appeal;

2.) at various times over the past six months, I have advanced not less than twenty-four (24) written requests to the Respondents, pursuant to M.G.L. c. 66, s.10, seeking the production of public records relating to the process used by them in the recruitment, selection and appointment of individuals to the Respondent City's reserve and full-time fire forces;

3.) at a pre-hearing conference in this appeal conducted by Commission Chairman, Christopher Bowman, on July 6, 2010, Respondent HRD produced copies of certain public records relating to the appointment of those individuals who were placed lower on the firefighter eligible list than Appellant;

4.) included among these records were: a) a copy of certification #290651, containing twenty-seven (27) names, as generated by HRD on September 9, 2009, forwarded to and used by the City to make its appointments, b) a copy of a written extension of certification #290651, dated 4/1/2010, as approved by Luz Henriquez, HRD and provided to the City, c) a copy of the Form 14, Notice of Employment, dated 3/1/2010, as executed by the City's mayor, acting as its appointing authority, verifying the selection of twelve (12) named- individuals from certification #290651, as permanent, reserve firefighters (See Exhibit's A-C, annexed hereto and incorporated herein by reference);

6.) despite written request(s) made to the City, pursuant to M.G.L. c.



66, s.10, for copies of any and all firefighter certifications and related documents issued by HRD and received by the City since 2004, I have not received any document purporting to be a written extension of certification #290651, other than the 4/1/2010 extension;

7.) at the pre-hearing conference of July 6, 2010, a personnel department staff member from the City admitted that the City had, virtually immediately, disqualified for possible appointment as reserve firefighters, three (3) candidates from certification #290651 and had so notified HRD pursuant to the requirements for the bypass of candidates;

8.) as a direct and consequential result of the City's disqualification of the above-referenced three (3) firefighter candidates, certification #290651 contained only twenty-four (24) names at all times relevant and material to the appointment process, instead of the requisite twenty-five (25) names under the so-called  $2n + 1$  rule set forth in PAR.09.

Signed under the penalties of perjury this \_\_\_\_\_ day of July, 2010.

---

Andrew R. Puglia

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Civil Service Commission  
One Ashburton Place, Room 503  
Boston, MA 02108

SEAN P. O'BRIEN,  
Appellant

V.

CITY OF SOMERVILLE;  
HUMAN RESOURCES  
DIVISION,  
Respondents

Docket No.: E-10-139

**ANSWER AND MOTION TO DISMISS  
OF RESPONDANT CITY OF SOMERVILLE TO APPELLANT'S APPEAL FOR  
EQUITABLE RELIEF**

Respondent City of Somerville ("City") hereby denies that the Appellant's rights under M.G.L. c. 31 have been prejudiced through no fault of his own, denies that Appellant has been denied any claimed statutory preference and otherwise asserts that Appellant is without basis for appeal and is additionally time barred in his appeal.

**Massachusetts General Laws, Chapter 31**

Section 1 defines the "Administrator" as "the personnel administrator of the human resources division within the executive office for administration and finance." Section 1 defines "Civil service appointment" as "an original appointment or a promotional appointment made pursuant to the provisions of the civil service law and rules."

The Commonwealth's Human Resources Division ("HRD") Civil Service Unit recruits and evaluates current and potential employees to ensure fair and equal access to careers in public service and to provide qualified candidates to the agencies and municipalities of the Commonwealth. HRD promulgates rules pursuant to M.G.L. c. 31, Section 1 known as "Personnel Administration Rules" or "PARs".

Section 25 requires that the administrator "shall establish, maintain and revise eligible lists of persons" and further spells out the order in which individual applicants will be placed on the list, how long a list will remain effective, and the removal of a person's name from a particular list. Section 25 provides, within certain limitations enumerated therein, that "persons on an eligible list shall be eligible for certification from such list for such period as the administrator shall determine".

Section 27 requires that the appointing authority, in this case the Mayor of the City of Somerville, only appoint such persons who are on a list certified by on an eligible list by the HRD administrator. Appointing authorities are further restricted to appointing only the person(s) certified as highest on the HRD list unless the appointing authority files with HRD written reasons for appointing the person whose name was not highest and even then such a decision is effective only when such statement of reasons has been received by the administrator.

There is no provision for a municipal appointing authority to make a civil service appointment of an individual who has taken the civil service exam to be a firefighter but has not yet been placed on a list certified by the HRD.

### **Personnel Administration Rules of the Human Resources Division**

The PARs established pursuant to M.G.L. c. 31, Section 1, requires the municipal appointing authority to make a requisition from the HRD to fill a civil service position. Under PAR.08 (1) the Personnel Administrator determines if an eligible list exists then certifies the names and their order on said list.

PAR.08 (2) provides for extensions of the time period by the administrator upon written request from the appointing authority, stating sound and sufficient reasons as to why the appointments cannot be made during the time periods set forth.

PAR.09 (1) requires that once names have been certified to an appointing authority under PAR.08 and the number of appointments or promotional appointments actually to be made is  $n$ , the appointing authority may appoint only from among the first  $2n + 1$  persons named in the certification willing to accept appointment.

PAR.24 provides for appeals to the Civil Service Commission and requires that certain basic criteria be met. Specifically:

PAR.24(1)(a) Appeals under M.G.L. c. 31, §2(b) must meet the following criteria:

(i) the appellant must make specific allegations in writing that the administrator acted, failed to act, or rendered a decision which was in violation of M.G.L. c. 31, these rules, or basic merit principles as defined in M.G.L. c. 31, §1;

(ii) the appellant must, by said allegations, clearly show that a right or rights under M.G.L. c.31 was or were clearly abridged, denied, or prejudiced due to the aforesaid action, failure to act, or decision in such a manner as to cause actual harm to the appellant's employment status; said allegations must make specific reference to the provision of law, rule, or basic merit principle which was violated;

(iii) a copy of the appeal notice must be filed with the administrator within three days of the filing of the appeal notice with the commission.

(b) Appeals under M.G.L. c. 31, §24 must meet the following criteria:

(i) the appeal must relate to the marking of the appellant's answers to essay questions, a finding that the appellant did not meet entrance requirements for the examination, or that the examination was not a fair test of the applicant's fitness to actually perform the primary or dominant duties of the position tested for;

(ii) the appeal must be filed within seventeen days of the mailing of the administrator's decision to the applicant.

(c) Appeals under M.G.L. c. 30, §49, relating to classification, shall be heard on a de novo basis.

(2) These rules are not intended to limit the authority of the jurisdiction of the Civil Service Commission to promulgate rules governing practice and procedure before it.

### **ANSWER OF RESPONDENT CITY OF SOMERVILLE**

The Respondent City of Somerville ("City" or "Somerville") answers by stating that at all times the City acted in an appropriate, legal manner and within the authority granted the Respondent City through statute and administrative rules.

The fact that Respondent HRD may maintain a master list of those who have participated in an examination separate and apart from the list Respondent HRD certifies and provides to municipalities is irrelevant to the instant matter.

Respondent City has no authority, statutorily or through HRD rules, to appoint outside of the certified list.

The basic purpose of the requirement that municipalities only appoint off of certified lists is to not only insure that basic merit principles are being followed but also that the administration of those basic merit principles are conducted in a uniform, consistent and fair method that also efficiently meets the public safety needs of the community in a timely fashion.

Additionally, there is no requirement that every time a new name is added to the HRD master list a municipality must call for a new list. If this were so, it would lead to municipalities being unable to conduct any meaningful hiring procedure since, as candidates were being processed (including orientation, medical, psychological and physical examinations, background check, interviews and appointment procedures) the process would have to stop each time a new test score was posted by Respondent HRD. Communities would no longer have a reliable, set number of individuals to process (2n +1) off of a definitive group of qualified candidates for which to devote limited resources and time to determine the best candidates for the position.

Respondent City does not challenge the Appellant's service in the military and, appropriately, there are specific provisions in both statute and the rules that address the ability to military personnel to take civil service examinations and the ranking they receive as a result of their service. Indeed, the Respondent City has regularly appointed military veterans and, in the instant matter, two candidates were not required to appear and sign the roster in person due to their being on deployment. These candidates, as well as other who had completed military service, followed the rules. Respondent City expects and requires no more or less than the Appellant who currently is at the top of a certified list provided by Respondent HRD to Respondent City (certification #207184) dated April 20, 2010 which expires July 13, 2010.

### **MOTION TO DISMISS**

Respondent City of Somerville hereby submits that the Appellant is without sufficient standing to proceed, Appellant's Appeal is without merit, either legally or on the facts as submitted, and that Respondent City at all times acted within its legal authority and therefore respectfully requests that the Civil Service Commission dismiss the underlying matter with prejudice.

Respondent City of Somerville,  
By its attorney:



Robert V. Collins, Chief Labor Counsel  
City of Somerville  
City Hall, Law Department  
93 Highland Avenue  
Somerville, MA 02143

Telephone: (617) 625-6600 ext. 4400  
Facsimile: (617) 776-8847  
E-mail: [rCollins@SomervilleMA.gov](mailto:rCollins@SomervilleMA.gov)

### CERTIFICATE OF SERVICE

I hereby certify that, after speaking with the representatives of all other parties, I have served a copy of the foregoing by U.S. Mail, postage pre-paid to:

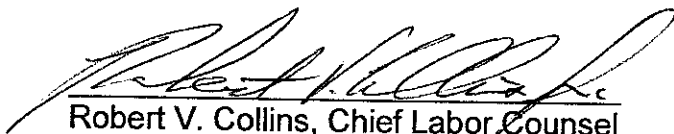
Andrew Puglia  
158 Powder House Boulevard  
Somerville, MA 02144

Facsimile: (978) 526-7098

John Marra, Esq.  
General Counsel  
Human Resources Division  
One Ashburton Place, Room 201  
Boston, MA 02108

Facsimile: (617) 727-1477

Additionally, copies were transmitted via facsimile to Appellant O'Brien's Authorized Representative and to Respondent HRD as well as delivered in hand to all Parties.



Robert V. Collins, Chief Labor Counsel  
City of Somerville  
City Hall, Law Department  
93 Highland Avenue  
Somerville, MA 02143

Dated: July 6, 2010

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Civil Service Commission  
One Ashburton Place, Room 503  
Boston, MA 02108

SEAN P. O'BRIEN,  
Appellant

V.

CITY OF SOMERVILLE;  
HUMAN RESOURCES  
DIVISION,  
Respondents

Docket No.: E-10-139

PROPOSED PRE-HEARING SUBMISSIONS  
ON BEHALF OF RESPONDENT  
CITY OF SOMERVILLE

Now comes the Respondent City of Somerville ("City" or "Somerville") in the above-captioned matter and proposes the following as its submission pursuant to Section 10(a) of the Standard Adjudicatory Rules of Practice and Procedure:

**(a) Motion / Discovery Issues:**

Respondent City of Somerville anticipates filing a Motion to Dismiss.

Respondent City of Somerville does not anticipate any discovery issues.

**(b) Proposed Stipulations of Agreed-upon Facts:**

- 1) Respondent City made a request to Respondent Human Resources Division ("HRD") on May 9, 2008
- 2) Respondent HRD issued certified list #280460 dated May 22, 2008
- 3) Jason Ruf was appointed to respondent City's reserve list off of certification #280460
- 4) On November 23, 2009 Respondent City requested certification for one full-time firefighter and Respondent HRD issued Roster containing only Jason Ruf's name
- 5) Mr. Ruf was appointed as a full-time firefighter with an employment date of December 27, 2009
- 6) Respondent City made a request to Respondent Human Resources Division ("HRD") on August 17, 2009 for nine (9) Permanent

Reserve Firefighters;

- 7) Certification #290651 was issued by Respondent HRD on September 9, 2009 and expired on December 2, 2009;
- 8) There were 27 names listed on the certification provided by Respondent HRD to Respondent City;
- 9) Twenty-four (24) candidates signed the certification, two (2) of which were active military (one candidate had his father sign on behalf of himself and the other sent a fax stating his interest conditional offers were made to both by Respondent City);
- 10) Three (3) candidates did not sign the certification;
- 11) Respondent City held an orientation for the candidates on September 24, 2009 and twenty-one (21) candidates attended and only one (1) did not;
- 12) Five (5) candidates subsequently withdrew their applications;
- 13) Respondent City filed with Respondent HRD a PAR. 09(2) request, pursuant to the HRD's "Personnel Administration Rules" ("PARs") concerning three (3) candidates after having concluded that the appointment of these persons whose names has been certified by Respondent HRD would be detrimental to the public interest. A written statement giving in detail the specific reasons substantiating such a conclusion was submit to the administrator as part of that PAR.09(2) request;
- 14) One (1) candidate had a pending case going to a jury trial and could not be considered at that time;
- 15) The Respondent City respectfully requested an extension from Respondent HRD date on December 24, 2009 and again on February 8, 2010 stating Respondent City was in the final stages of the selection process.
- 16) Respondent HRD has the authority to grant requests for extensions;
- 17) On February 24, 2010 the Respondent City again requested an extension due to the fact that one of the candidates had a two month delay due to military deployment during the processing of his application. No additional names were requested (stated in the letter to HRD) at that time. This extension was approved through April 1, 2010;
- 18) Respondent City appointed ten (10) candidates to the Reserve list via a Form 14 dated March 1, 2010 submitted to Respondent HRD with an employment date of March 1, 2010;
- 19) On March 9, 2010 a Respondent City made a request to Respondent HRD for six (6) Permanent Full-Time Firefighters;
- 20) Respondent HRD issued a roster to Respondent City on March 11, 2010, Certification #290652 dated March 11, 2010;
- 21) The candidates whose names appeared on Certification #290652 had until March 18, 2010 to sign the Roster;
- 22) All ten (10) individuals on Certification #290652 signed the Roster;
- 23) A Notice of Employment was sent by Respondent City to Respondent HRD (formerly Form 14) for the appointments of six (6) Permanent Full Time Firefighters with an effective date of March 21, 2010;



**(c) Potential Witnesses:**

- 1) Kevin Kelliher, Chief Engineer;
- 2) Jessie Baker, Director of Personnel

**(d) Issues:**

- 1) Whether the Respondent City complied with the General Laws of the Commonwealth and the Personnel Administration Rules promulgated thereunder by Respondent HRD in the appointment of individuals to its reserve fire list and/or fire department from certifications 280460 and 290652 issued to Respondent City by Respondent HRD.

**(e) Suitable dates for Hearing on the Merits:**

- 1) Respondent City is available for dates on or after August 2, 2010.

**(f) Other Matters:**

- 1) There are no additional matters at this time.

Respondent City of Somerville,

By its attorney:



Robert V. Collins, Chief Labor Counsel  
City of Somerville  
City Hall, Law Department  
93 Highland Avenue  
Somerville, MA 02143

Telephone: (617) 625-6600 ext. 4400

Facsimile: (617) 776-8847

E-mail: [rCollins@SomervilleMA.gov](mailto:rCollins@SomervilleMA.gov)

July 23, 2010

City of Somerville  
City Hall  
93 Highland Avenue  
Somerville, Ma 02143

**CERTIFIED RETURN RECEIPT**  
**# 7007 0220 0001 5404 9614**

Attention: Jessie Baker,  
Personnel Director

Dear Ms. Baker:

Pursuant to the provisions of M.G.L. c. 66, s.10, I hereby request copies of the following public records, to wit:

1.) any and all memoranda, letters, email correspondence, notes or similar documents by and between the personnel department or anyone acting in its behalf and the state human resources division (HRD), in which the city has sought and the HRD has purportedly approved an extension of certification # 290651, including without limitation, the extension sought on December 24, 2009.

As required by law I will, of course, be pleased to pay the reasonable cost of providing me such copies.

Sincerely,



ANDREW R. PUGLIA  
158 Powder House Boulevard  
Somerville, MA 02144  
(857) 523-8227

**RE: O'Brien v. Somerville, at al**

**From:** **Whitcher, Elizabeth (HRD)** (Elizabeth.Whitcher@state.ma.us)

**Sent:** Wed 8/18/10 2:49 PM

**To:** 'Andrew Puglia' (arpuglia@hotmail.com)

**Cc:** 'Robert Collins' (RCollins@somervillema.gov); 'Bowman, Christopher (CSC)' (Christopher.Bowman@state.ma.us)

Dear Mr. Puglia,

HRD is in possession of the following documents:

- December 24, 2009 letter from the City to HRD requesting an extension date for the return of Certification No. 290651
- February 3, 2010 e-mail from the City to HRD asking for clarification on its December request for extension
- February 8, 2010 letter from the City to HRD requesting an extension date for the return of Certification No. 290651
- February 24, 2010 letter from the City to HRD requesting an extension date for the return of Certification No. 290651
- February 24, 2010 e-mail from the City to HRD requesting to expedite response to City's request for extension
- February 24, 2010 e-mail from HRD to the City responding to the City's request
- February 24, 2010 letter from the City to HRD providing reasons for extension request, approved by HRD

Please let me know a fax number or mailing address to which I can send these documents. HRD does not possess any other documents responsive to your information request.

Liz Whitcher

---

**From:** Andrew Puglia [mailto:arpuglia@hotmail.com]

**Sent:** Saturday, August 14, 2010 2:30 PM

**To:** Elizabeth Whitcher(HRD)

**Subject:** O'Brien v. Somerville, at al

Dear Ms. Whitcher:

In an effort to comply with the informal discovery suggestion of SRAP (8)(a), I request that HRD provide me with copies of the documents listed in my July 23, 2010 public records request to the city of Somerville's personnel director, Jessie Baker, which has met with no response from her.

Rather than file a time-consuming and burdensome appeal with the supervisor of public records; and inasmuch as the requested documents are clearly non-privileged and, if they exist at all, readily available to you, I thought it the more expeditious thing to make this request directly to you. I have attached a copy of that July 23 request for your reference.

If you are unable to comply with my request, I ask that you so notify me by Wednesday, August 18, 2010 so I may undertake formal discovery.

Thank you for your cooperation.

Sincerely,  
SEAN O'BRIEN  
By:

Andrew R. Puglia

Submitted: 8/14/2010

Henriquez, Luz M (HRD)

**From:** Henriquez, Luz M (HRD)

**Sent:** Wednesday, February 24, 2010 5:35 PM

**To:** 'Matthew Buckley'

**Subject:** RE: Extension of Cert #290651

Greetings Attorney Buckley,

I am in receipt of you faxed letter dated February 24, 2010, requesting an extension of time until April 1, 2010 on Certification No. 290651, issued to the City of Somerville Fire Department on September 9, 2009 for nine permanent Reserve firefighters. Please note that a review of our records indicate that the Firefighter Eligible List for the City of Somerville has changed since the issuance of this certification. In order to approve your request the following individuals must be considered: Sean P. O'Brian and Justin Bonner.

Mr. Sean P. O'Brian's name should appear listed at the top of page one of this certification before the name of David Farino and Mr. Justin Bonner's name should appear listed before the name of John P. Casey on page one of this certification.

Once communication is received from the City, this office will contact both candidates to notify them to report to your office to sign if interested in the positions.

Should you have questions, please contact me at 617-878-9754.

Thank you.

Luz Henriquez  
Civil Service Unit

---

**From:** Matthew Buckley [mailto:MBuckley@somervillema.gov]

**Sent:** Wednesday, February 24, 2010 4:44 PM

**To:** Henriquez, Luz M (HRD)

**Subject:** Extension of Cert #290651

Hi Luz,

The meeting at which we expect the Board of Aldermen sub-committee to review these appointments is going forward at 7 p.m. tonight. Can you fax the response to our request today?

I realize this is a bit of an imposition, so thank you.

Matt

3/2/2010



CITY OF SOMERVILLE, MASSACHUSETTS

JOSEPH A. CURTATONE  
MAYOR

February 24, 2010

Luz Henriquez, Director  
Public Safety Certifications  
Human Resources Division  
One Ashburton Place  
Boston, MA 02108

**Certification Extension**

# 290651

Approved Through

04-01-2010

2010 FEB 25 P 2:07

COMM. OF MASS  
HUMAN RESOURCES DIVISION  
CIVIL SERVICE UNIT

Dear Ms. Henriquez:

The City of Somerville respectfully requests an extension date for the return of Certification No. 290651 dated 09/09/09, for 9 Permanent Reserve Firefighters. The City requests an extension until April 1, 2010.

The reason for the extension is that one of the candidates had a two month delay due to military deployment, during the processing of his application. No additional names are needed. Conditional offers of employment were sent to the following candidates on the following dates:

- David Farino – October 20, 2009
- Keith McInnis – November 5, 2009
- Christopher Clark – November 5, 2009
- John O'Connor (active military)
- Patrick Halloran (active military)
- Sean Layton – November 5, 2009
- Robert Galvin – November 12, 2009
- Ryan Layton – November 5, 2009
- Jay McKenzie – November 5, 2009
- Thomas Medeiros – November 5, 2009
- Timothy O'Hearn – November 23, 2009
- David Pantanella – November 5, 2009



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2100 • TTY: (617) 666-0001 • FAX: (617) 625-3434  
EMAIL: Mayor@somervillema.gov • www.somervillema.gov



00237  
HRD

*The City is moving forward with the appointment process at this time.*

Thank you for your attention in this matter.

Sincerely,



Joseph A. Curtatone, Mayor  
Appointing Authority

COMM OF MASS  
HUMAN RESOURCES DIVISION  
CIVIL SERVICE UNIT  
2010 FEB 25 P 2:07

## Re:

From: **Sarah O'Brien** (sarahwobrien@gmail.com)  
 Sent: Mon 2/15/10 2:32 PM  
 To: Andrew Puglia (arpuglia@hotmail.com)

List As Of 9/30/09  
 Available On HRD Website

Here is the current list. I can't access previous lists.

## Somerville Firefighter List

Applicant	City/Town	SOMERVILLE Residency	Veteran Status	EMT
✓ O'BRIEN, SEAN P	SOMERVILLE	RESIDENT	D VETERAN	
✓ FARINO, JR, DAVID	SOMERVILLE	RESIDENT	D VETERAN	
JONES, WILLIAM J	SOMERVILLE	RESIDENT	VETERAN	<b>BASIC</b>
✓ MCINNIS, KEITH M	SOMERVILLE	RESIDENT	VETERAN	
BONNER, JUSTIN	SOMERVILLE	RESIDENT	VETERAN	
CASEY, JOHN P	SOMERVILLE	RESIDENT	VETERAN	
✓ CLARK, CHRISTOPH P	SOMERVILLE	RESIDENT	VETERAN	<b>BASIC</b>
GASPARINI, CHRISTOPHER	SOMERVILLE	RESIDENT	VETERAN	
LEONE, MARK A	MEDFORD	RESIDENT	VETERAN	
JEFFRES, PHILLIP J	SOMERVILLE	RESIDENT	VETERAN	
✓ O'CONNOR, JOHN C	MILTON	RESIDENT	VETERAN	
✓ PATRICK, HALLORAN	ELIZABETHTOWN	RESIDENT	VETERAN	
RADOCHIA, DAVID L	SOMERVILLE	RESIDENT	VETERAN	
EPPS, LAWRENCE P	SOMERVILLE	RESIDENT	VETERAN	
✓ LAYTON, SEAN S	SOMERVILLE	RESIDENT	CIVILIAN	
RYKERSON, DYLAN	SOMERVILLE	RESIDENT	CIVILIAN	
CHANG, ANDREW	SOMERVILLE	RESIDENT	CIVILIAN	
COSTA, DANIEL M	SOMERVILLE	RESIDENT	CIVILIAN	
✓ GALVIN, ROBERT A	SOMERVILLE	RESIDENT	CIVILIAN	<b>BASIC</b>
✓ LAYTON, RYAN P	SOMERVILLE	RESIDENT	CIVILIAN	
✓ MCKENZIE, JAY W	SOMERVILLE	RESIDENT	CIVILIAN	
✓ MEDEIROS, THOMAS A	SOMERVILLE	RESIDENT	CIVILIAN	
NEAL, RICHARD P	EVERETT	RESIDENT	CIVILIAN	
✓ NOONAN, BRENDAN C	SOMERVILLE	RESIDENT	CIVILIAN	
✓ O'HEARN, JR., TIMOTHY M	SOMERVILLE	RESIDENT	CIVILIAN	
✓ OLIVER, WILL F	SOMERVILLE	RESIDENT	CIVILIAN	
✓ PANTANELLA, DAVID A	SOMERVILLE	RESIDENT	CIVILIAN	<b>BASIC</b>
PATRIQUIN, ANDREW J	SOMERVILLE	RESIDENT	CIVILIAN	
ARDOLINO, MARC R	SOMERVILLE	RESIDENT	CIVILIAN	<b>BASIC</b>



BEDOYA,DAVID	SOMERVILLE	RESIDENT	CIVILIAN	
CAFFERKY,STEPHEN P	SOMERVILLE	RESIDENT	CIVILIAN	
CHOW,ALBERT F	SOMERVILLE	RESIDENT	CIVILIAN	
DORANT,JASON J	SOMERVILLE	RESIDENT	CIVILIAN	
FALAISE,JEAN-CLAU M	SOMERVILLE	RESIDENT	CIVILIAN	
GERSHEN,DAVID H	WATERTOWN	RESIDENT	CIVILIAN	<b>PARAMEDIC</b>
GIORDANO,MICHAEL C	SOMERVILLE	RESIDENT	CIVILIAN	
KHOURY,MICHAEL J	SOMERVILLE	RESIDENT	CIVILIAN	
LAVITA,DENNIS F	SOMERVILLE	RESIDENT	CIVILIAN	
LYONS,SHAUN M	SOMERVILLE	RESIDENT	CIVILIAN	
MICHAELS,DANIEL H	SOMERVILLE	RESIDENT	CIVILIAN	
RUF,JASON M	SOMERVILLE	RESIDENT	CIVILIAN	He was put on the reserve list in December.
SULLIVAN,DENNIS J	SOMERVILLE	RESIDENT	CIVILIAN	<b>BASIC</b>
TODD,HEADLEY W	SOMERVILLE	RESIDENT	CIVILIAN	
CURLY,JOHN A	SOMERVILLE	RESIDENT	CIVILIAN	
DAVIS,CLAYTON J	MALDEN	RESIDENT	CIVILIAN	<b>PARAMEDIC</b>
GRIFFITHS,NOLAN T	SOMERVILLE	RESIDENT	CIVILIAN	
GULLAGE,JOHN J	SOMERVILLE	RESIDENT	CIVILIAN	<b>BASIC</b>
JACQUET,ORLANDO L	SOMERVILLE	RESIDENT	CIVILIAN	
KELLY,CARINA M	SOMERVILLE	RESIDENT	CIVILIAN	
LABAO,ANDREW G	SOMERVILLE	RESIDENT	CIVILIAN	
LYNCH,SHAWN M	SOMERVILLE	RESIDENT	CIVILIAN	
NGUYEN,QUAN T	EVERETT	RESIDENT	CIVILIAN	
REMOND,JACQUET F	SOMERVILLE	RESIDENT	CIVILIAN	
RIZZUTO,ANTHONY T	SOMERVILLE	RESIDENT	CIVILIAN	
SANBORN,MATTHEW J	SOMERVILLE	RESIDENT	CIVILIAN	
SAUNDERS,MELISSA J	SOMERVILLE	RESIDENT	CIVILIAN	
TAMANG,MAYAN	SOMERVILLE	RESIDENT	CIVILIAN	
CHANDLER,ANDRE E	ROSLINDALE	RESIDENT	CIVILIAN	
CHAVES,DANNY T	SOMERVILLE	RESIDENT	CIVILIAN	
DESROCHERS,ROGER J	SOMERVILLE	RESIDENT	CIVILIAN	
DICARLO,SALVY	SOMERVILLE	RESIDENT	CIVILIAN	
GONCALVES,ILDO C	DORCHESTER	RESIDENT	CIVILIAN	
IVYJR.,ROBERT L	SOMERVILLE	RESIDENT	CIVILIAN	
MARTIN,IRIZARRY	LYNN	RESIDENT	CIVILIAN	
MCCARTHY,STEVEN R	SOMERVILLE	RESIDENT	CIVILIAN	
POWER,RICHARD S	SOMERVILLE	RESIDENT	CIVILIAN	
BLAIKIE,PAUL R	CHARLESTOWN	NON RESIDENT	D VETERAN	
MCREYNOLDS,JEREMY A	WINCHESTER	NON RESIDENT	D VETERAN	
PYRCZ,PATRICK J	MEDFORD	NON RESIDENT	D VETERAN	<b>BASIC</b>

# **PERSONNEL ADMINISTRATION RULES**

Prepared by the Office of Legal Counsel  
of the  
Human Resources Division

(Effective as of February 28, 2003)

# PERSONNEL ADMINISTRATION RULES

(Effective as of February 28, 2003)

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on his part during the probationary period, may, upon his request in writing made within six months from the date of termination of his service and if the eligible list from which he was appointed has not expired, have his name restored to the eligible list for the remainder of the period of validity of the list from which he was appointed.

(3) When eligible lists for the same position are established as the result of open competitive and promotional examinations, names shall be certified first from the promotional examination, second from the reemployment list if the administrator has established such a list pursuant to M.G.L. c. 31, §40, third from the list established from the open competitive examination.

(4) The examination marks shall be presented on eligible lists in whole numbers.

### **PAR.08 Civil Service Requisition and Certification**

~~(1) Whenever any appointing authority shall make requisition to fill a position, the Personnel Administrator shall, if a suitable eligible list exists, certify the names standing highest on such list in order of their place on such list, except as otherwise provided by law or civil service rule. Insofar as possible, sufficient names shall be certified to enable such appointing authority to make appointments from among the number specified in PAR.09.~~

~~(2) Unless an appointing authority shall, within the time periods set forth in this paragraph, make and notify the administrator of an appointment from the names certified, the certification shall become void. The time periods are as follows:~~

(a) within three weeks of any certification of names to the appointing authority by the administrator from any eligible list established as the result of a promotional examination;

(b) within six weeks of any certification of names to the appointing authority by the administrator from any eligible list established as the result of an open competitive non-public safety examination;

~~(c) within twelve weeks of any certification of names to the appointing authority by the Administrator from any eligible list established as the result of an open competitive public safety examination; provided, however, that the Administrator, in his discretion, may limit or extend the term of any certification, or ratify any appointment made from such certification; provided further, however, that any appointing authority requesting an extension must submit a written request setting forth sound and sufficient reasons as to why the appointment cannot be made within the time period set forth in this paragraph. The Administrator may, before or after an appointment has been made, cancel a certification if he finds that the certification was made in error, or that any person certified was placed on the eligible list through mistake or fraud; and, if a person has been appointed from such certification, the Administrator may revoke the appointment and order the person's discharge. No person, however, shall be deemed to have been appointed~~

or promoted to any position requiring certification by the Administrator from an eligible list unless the appointing authority, prior to the date of expiration of such eligible list and without regard to the time periods for certifying set forth in this paragraph, shall have notified the Administrator in writing that such person has been so appointed or promoted, or that the appointing authority has notified the Administrator of its intent to appoint or promote such person, if the appointment or promotion must be delayed due to the scheduling of any training required by statute, or municipal ordinance or by-law, or departmental rule.

(3) Upon determining that any candidate on a certification is to be bypassed, as defined in Personnel Administration Rule .02, an appointing authority shall, immediately upon making such determination, send to the Personnel Administrator, in writing, a full and complete statement of the reason or reasons for bypassing a person or persons more highly ranked, or of the reason or reasons for selecting another person or persons, lower in score or preference category. Such statement shall indicate all reasons for selection or bypass on which the appointing authority intends to rely or might, in the future, rely, to justify the bypass or selection of a candidate or candidates. No reasons that are known or reasonably discoverable by the appointing authority, and which have not been disclosed to the Personnel Administrator, shall later be admissible as reasons for selection or bypass in any proceeding before the Personnel Administrator or the Civil Service Commission. The certification process will not proceed, and no appointments or promotions will be approved, unless and until the Personnel Administrator approves reasons for selection or bypass.

The Personnel Administrator shall, within fifteen days of receiving reasons for selection or bypass, review the reasons submitted and inform the appointing authority of approval or disapproval of the reasons for selection or bypass. The appointing authority shall be granted a hearing, as necessary, with the Personnel Administrator, or the Administrator's designee, during the fifteen-day review period to explain, clarify or justify reasons for selection or bypass. If the Personnel Administrator disapproves any reason or reasons for selection or bypass, he shall immediately notify the appointing authority, with clear and specific reasons for the rejection. If the Personnel Administrator accepts the reasons, he shall forthwith notify the appointing authority and the bypassed candidate or candidates, who may then appeal the decision to the Civil Service Commission pursuant to M.G.L. Chapter 31, §2, subsection (b).

~~Candidates for appointment shall not be permitted to assume the duties associated with their proposed appointments until said appointments have been approved by the Personnel Administrator.~~ Appointments and promotions made in violation of this Rule shall be void if the Administrator deems them to be a violation of this Rule, and may be subject to issuance of stop-pay orders pursuant to M.G.L. Chapter 31, §73.

All time periods in this section shall include Saturdays, Sundays, and holidays.

(4) If a requisition is made calling for persons having special qualifications in addition to the general qualifications tested by an examination, the administrator may issue a selective certification of the names of such persons from the appropriate eligible list.

(5) If a requisition is made to fill vacancies in a title for which no eligible list exists, the administrator may certify from a suitable list established to fill positions in a different title with similar specifications.

(6) The administrator shall place on the eligible list below the names of disabled veterans as defined in G.L. Chapter 31, §1, the names of blind persons for employment by any state department, board or commission in the office or offices of which dictating machines are used of typists to take dictation solely from such machines and shall certify the names of such persons upon receipt of requisition. The administrator may require appointing authorities to identify those requisitions filed to fill positions in accordance with M.G.L. c. 31, §3(g).

~~(7) Upon receipt of a requisition for full-time service, the names of intermittent, recurrent, part-time and reserve employees appointed on a permanent basis shall be certified, in accordance with these rules regarding certification, to a position with the same title in the same department or division of a department. The basis of certification shall be the order of appointment to the permanent intermittent, permanent recurrent, permanent part-time or permanent reserve position with the same title in the department or division of a department for which requisition is made; provided, that any person so appointed shall serve a full probationary period after appointment to a full-time position.~~

#### PAR.09 Civil Service Appointments

~~(1) When names have been certified to an appointing authority under PAR.08 and the number of appointments or promotional appointments actually to be made is  $n$ , the appointing authority may appoint only from among the first  $2n + 1$  persons named in the certification willing to accept appointment, e.g.,~~

when the number of  
appointments to be  
made is:

the appointing authority  
may appoint only from  
among the first

1	3
2	5
3	7
4	9
5	11

persons named in the certification willing to accept; provided that when more than one promotional appointment is being made, the first such promotional appointment shall be made from among the first three persons whose names are certified and who are willing to accept, the second such promotional appointment shall be made from among the first five persons whose names are certified and who are willing to accept, the third such promotional appointment shall be made from among the first seven persons whose names are certified and who are willing to accept, and so forth.