

Hilo, Hawaii
Tuesday, April 22, 2003

The regular meeting of the Civil Service Commission, County of Hawaii, was held in the conference room of the Department of Civil Service, 101 Pauahi Street, Suite 2, Hilo, Hawaii, on Tuesday, April 22, 2003.

Present:

Ms. Jeanne E. Yagi, Chairperson
Ms. Diana Kahler, Vice Chairperson
Mr. Clarence Souza, Member
Mr. Clifford Kaminaka, Member
Mr. Rodney T. Kaido, Deputy Director of Personnel
Ms. Velma Y. Menezes, Secretary-Reporter

Excused:

Ms. Kaliko Chun, Member

Chairperson Yagi called the meeting to order at 9:33 a.m.

MINUTES OF MARCH 18, 2003

MOTION: Mr. Souza moved that the minutes of March 18, 2003 be approved as circulated. The motion was seconded by Mr. Kaminaka and unanimously carried.

COMMUNICATIONS

A) Communication No. 03-11, from Robert J. Crudele, Attorney at Law, withdrawing the appeal filed on behalf of Dyson R. Arakaki.

MOTION: Mr. Souza moved that Communication No. 03-11 be received and filed. The motion was seconded by Mr. Kaminaka and unanimously carried.

Mr. Akama noted that Mr. Arakaki is going through the grievance process and by statute is precluded from coming back to the Commission as it would be past the deadline.

DIRECTOR'S REPORT

Mr. Kaido reported the following:

1) Mr. Dudley Akama has been assigned from the Corporation Counsel's office to not only fill in for Mr. Takahashi's position but to do other legal work for the department including workers' comp and assisting the Civil Service Commission. Mr. Akama is also being assigned work from Corporation Counsel in addition to work assignments from Civil Service.

2) Regarding negotiations, only the Fire union has a decision on negotiations. UPW has not actively negotiated. HGEA units are on hold. Police will be going to arbitration the last week of June.

SCHEDULE NEXT MEETING DATE

The Commission scheduled its next meeting for May 20, 2003, at 9:30 a.m.

The meeting recessed at 9:40 a.m.

**Tuesday, April 22, 2003
Hilo, Hawaii**

HEARING – BILLY M. LAXTON – WHETHER OR NOT THERE WERE VIOLATIONS OF ANY CIVIL SERVICE LAWS, RULES, OR REGULATIONS IN THE DETERMINATION THAT THE APPELLANT FAILED TO MEET THE MINIMUM QUALIFICATION REQUIREMENTS FOR THE SOLID WASTE SUPERVISOR I RECRUITMENT.

Present:

**Ms. Jeanne E. Yagi, Chair
Ms. Diana Kahler, Vice Chair
Mr. Clarence Souza, Member
Ms. Kaliko Chun, Member (at 11:17 a.m.)
Mr. Clifford Kaminaka, Member
Ms. Sarah Hirakami, Deputy Attorney General
Ms. Lori M. Nagao, Clerk III
Ms. Velma Y. Menezes, Secretary-Reporter**

Also Present:

**Mr. Billy M. Laxton, Appellant
Ms. Stephanie Cabaniss, Appellant’s Representative
Mr. Dudley Akama, Deputy Corporation Counsel
Mr. Rodney T. Kaido, Deputy Director of Personnel
Ms. Gabriella M. Cabanas, Personnel Program Specialist**

The following exhibits were entered into the record:

Employer’s Exhibit 1 - Recruitment Announcement for Solid Waste Supervisor I

Employer’s Exhibit 2 - Application for Employment

Employer’s Exhibit 3 - Letter Dated February 14, 2003

The following witnesses were sworn in and testified:

Mr. Billy M. Laxton, Appellant

Ms. Stephanie Cabaniss, Appellant's Representative

Ms. Gabriella M. Cabanas, Personnel Program Specialist

Chairperson Yagi called the hearing to order at 10:30 a.m.

Chairperson Yagi informed Mr. Laxton of his option to have a closed hearing. Mr. Laxton opted for an open hearing.

Chairperson Yagi stated that the issue in this case is whether or not there were any violations of any civil service laws, rules, or regulations in the determination that the Appellant failed to meet the minimum qualification requirements for the Solid Waste Supervisor I recruitment.

Ms. Cabaniss stated the following in her opening statement:

Mr. Laxton believes that he met the minimum requirement for the position by supplementing the information that was required. What he is appealing is the posting of the position and how it was worded.

Mr. Akama stated the following in his opening statement:

The evidence will show on behalf of the Department of Civil Service that the announcement was clear, that the two-year requirement of employment in the landfill operation and maintenance was a threshold requirement. The intention was that it could include supervisory experience or equipment operator experience, but the threshold of experience in landfill operations and maintenance needed to be met.

Evidence will also show that Mr. Laxton, in his application and the supplements which he filed with the application, did not fulfill this threshold requirement. Therefore, pursuant to a letter

to Mr. Laxton from Civil Service, he was properly denied due to lack of required experience.

In presenting Mr. Laxton's case, Ms. Cabaniss testified to the following:

In a conversation that Ms. Cabanas had with Mr. Laxton on February 18, 2003, Ms. Cabanas had indicated that Mr. Laxton lacked the required experience in reference to the operation and maintenance of a sanitary landfill. However, in looking at the posting of the Solid Waste Supervisor I minimum requirements, it states the combination of education and experience substantially equivalent to graduation from high school and two years of experience in the operation and maintenance of a sanitary landfill including or supplemented by one year experience in the operation of bulldozers or related equipment and one year supervisory experience.

What Mr. Laxton is looking at as far as the minimum requirement was that by definition "or" means a word used to connect the second of two choices of possibilities indicating uncertainty. The word "supplemented" means a part that compensates for what is lacking.

Mr. Laxton feels that he has met the minimum requirement for the position applied by supplementing not one, but two years of supervisory, as well as in the operation of bulldozers or related equipment. He feels that he has met the description referenced to "or supplemented by" as stated in the minimum requirements for the position of Solid Waste Supervisor I.

In presenting to this case, Mr. Laxton is looking at the words that were used in the posting of this position. Better wording could be used, such as "including and not limited by supplemented work experiences of one year experience in operation of bulldozers or related equipment and one year of supervisory experience." That would have made the posting a lot clearer where Mr. Laxton would not have applied for the position.

Based on what Ms. Cabaniss has stated today, they feel that Mr. Laxton would have met the minimum requirements.

Ms. Cabaniss was questioned by the Commission. Refer to tape recording for further proceedings.

In presenting his case, Mr. Akama called upon Ms. Gabriella Cabana, who testified on the recruitment announcement and minimum qualification requirements for the Solid Waste Supervisor I position.

Ms. Cabanas was questioned by the Commission. Refer to tape recording for further proceedings.

The Commission recessed at 11:43 a.m. and reconvened at 11:51 a.m.

Ms. Cabaniss stated the following in closing:

She would like to go back to challenging the posting of the minimum requirements because of the wording “including or supplemented by.” The word supplemented means a part that compensates for what is lacking. Ms. Cabanas had stated that Mr. Laxton lacked the experience of operation and maintenance of a sanitary landfill, so by supplementing, and by the definition that Ms. Cabaniss had given, Mr. Laxton feels that his more than one year experience in operating bulldozers and other related equipment, and over one year of supervisory experience meet the minimum requirements.

Mr. Laxton understood Ms. Cabanas’ position when he spoke to her by telephone on February 18. He was of the understanding that she was only following her job description on how to interpret the posting. When it was asked of her if other people had applied and also questioned about that one section of the wording “including or supplemented by,” she did agree that there was another person that also had called and questioned how it was worded in the posting. Based on the posting and the

technicality of the words, if Ms. Cabanas is only interpreting whatever department or division is creating the posting, then they should use better verbiage to make it clearer for people who are not County workers applying for the positions. As an example, it could be reworded to “including and not limited by supplemented work experience of one year experience in operation of bulldozers or related equipment and one year of supervisory experience.”

Mr. Akama stated the following in closing:

The reason Mr. Laxton’s application was denied in this case is because he did not meet the minimum requirement of two years of operation or maintenance of a landfill. His total of three years and nine months of operating a bulldozer were not substituted for the two years required for working in a landfill environment.

By reason of not meeting the minimum requirements of the open competitive recruitment for Solid Waste Supervisor I, Mr. Laxton was properly denied. Mr. Akama asked the Commission to uphold and affirm the Director’s decision to so deny his application.

The Commission entered into deliberations.

Mr. Souza stated that while he thinks Mr. Laxton’s position is a good one, it does not violate civil service rules and regulations. Ms. Cabanas, did give Mr. Laxton an opportunity to provide supplemental information, and she related to Mr. Laxton what requirements were needed.

Ms. Kahler agreed that Mr. Laxton did have another opportunity to get information that would lead the test of whether he had the experience or not. She understands that the verbiage is confusing, and they could get into semantics and come up with 20 different definitions, but she doesn’t see where any civil service rules were violated.

Chairperson Yagi added that she was pleased to learn that Mr. Laxton able to have a conversation with staff to find out what his next step was. She was further pleased to learn that Mr. Laxton did have an opportunity to provide additional statements on his own behalf.

MOTION: Mr. Souza moved that the appeal be denied as no civil service laws, rules, or regulations were violated. The motion was seconded by Mr. Kaminaka and unanimously carried.

ADJOURNMENT

The meeting adjourned at 12:03 p.m.

Submitted by,

Secretary, Civil Service Commission

APPROVED:

**Jeanne E. Yagi
Chairperson**

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