

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Pequita L. Hansberry,

Appellant,

v.

Case No. 10-REC-06-0148

Cuyahoga County Board of Commissioners,

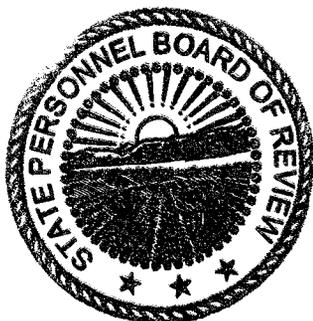
Appellee.

ORDER

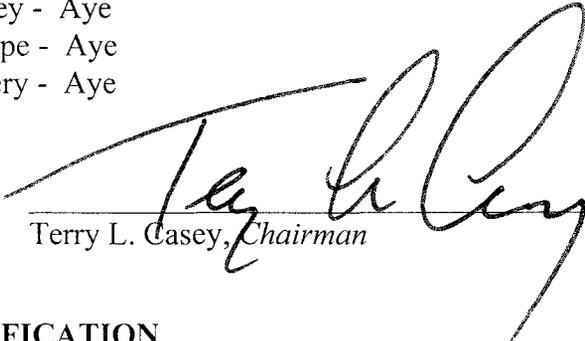
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that Appellee's determination that Appellant is properly classified as a Senior Development Finance Analyst, classification number 1055232, be **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.14.



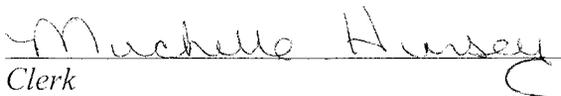
Casey - Aye
Lumpe - Aye
Tillery - Aye


Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitute ~~the original~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, March 1, 2011.


Michelle Hursey
Clerk

NOTE: Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.

3.1.11mH

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Pequita L. Hansberry

Case No. 10-REC-06-0148

Appellant

v.

January 25, 2011

Cuyahoga County Board of Commissioners

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on September 22, 2010. Present at the hearing were the Appellant, Pequita L. Hansberry, appearing *pro se* and Appellee Cuyahoga County Board of Commissioners designee Albert Bouchahine, Personnel Manager, represented by Barbara R. Marburger, Assistant Prosecuting Attorney.

The subject matter jurisdiction of the Board was established pursuant to sections 124.03 and 124.14 of the Ohio Revised Code.

STATEMENT OF THE CASE

Appellant Hansberry testified she has been with the Department of Development, the Community Development Division for approximately six years and has been employed by the county for approximately fourteen and one-half years. Her classification prior to and after her job audit is that of Senior Development Finance Analyst and she is supervised by James Herron, Chief Development Officer. Appellant Hansberry has no supervisory duties. She explained the division manages Block Grant funds allocated by HUD for fifty urban county communities and she is the only employee in the division.

Appellant Hansberry identified Appellant's Exhibit A as the Comprehensive Position Questionnaire (CPQ) which she completed on February 26, 2010. She testified that it was accurate when she completed it and it is still an accurate description of her job duties. She explained that her duties consist of answering program questions from Community Leaders; evaluating community needs;

conducting training sessions, attending public meetings; reviewing grant applications; processing funding requests and managing funds; reviewing payrolls for compliance with Davis-Bacon; and creating programs.

On cross examination, Appellant Hansberry testified she administers the grant funds. She stated that discretionary grants and the funding program for store front renovations are under the general revenue funds and she manages both of those. Appellant Hansberry explained that a company or organization requests funds from the administrator and once the administrator approves the request, she does everything else. The block grants are given to sub-divisions and other funds go to small business owners.

In June 2008, Appellant Hansberry's duties changed. That is when the Community Development Manager left and she assumed all of those duties. She testified that when the Manager was there, she assisted with the Urban County Community Block Grants Program and when he left, she did it all. Appellant Hansberry testified she manages and administers the stimulus funds and plans and presents the annual program seminar and manual for the fifty urban communities.

Appellant Hansberry testified that after her manager left, she applied for a temporary work level in July 2009 and it was denied. She then filed for a job audit, as she stated she has taken on the additional duties of the manager and is doing the job that it used to take three people to do.

James Herron testified he has been with Department of Development for approximately thirteen years and has supervised Appellant Hansberry since June 2008. He stated he has reviewed the CPQ and attachments which were completed by Appellant Hansberry. Mr. Herron testified Appellant Hansberry interacts with the fifty urban communities by being a liaison with the elected officials, attending public meetings and interacting with the mayors and city councils. Appellant Hansberry answers their questions clearly and coherently. The fifteen to twenty public hearings that she attends annually are held in the evening.

Mr. Herron explained that the funding must be spent very specifically and Appellant Hansberry is responsible for reporting to HUD how the funding is spent and ensuring that it is spent on eligible activities. He clarified that the discretionary funding grants come from the County Administrator and it is Appellant Hansberry's

responsibility to see that the Administrator receives the proper reports on how those dollars are spent and the justification for the spending of that money.

On cross examination Mr. Herron stated he has eight employees under his direct supervision and that Appellant Hansberry and another employee are the two employees who head up the divisions, although Appellant Hansberry is the only person in her division. He testified that in March and April, between fifty and sixty percent of Appellant Hansberry's time is spent on the construction grants.

Albert Bouchahine testified he has been employed with the county for approximately twelve years. He explained that when an employee requests a job audit, an outside consultant reviews the CPQ and makes a recommendation to him. He reviews all the documents and recommendations and he then makes a recommendation to the Director of Human Resources, Ms. Southington. Mr. Bouchahine testified that he recommended that Appellant Hansberry was properly classified based on the essential functions of her position. He stated he did not consider the Program Officer classifications. Mr. Bouchahine testified there are only three specifications which reference the management of block grants and the other two are lower classifications than Appellant Hansberry's.

On cross examination Mr. Bouchahine identified Appellee's Exhibit 4 as the documents from the consultant which he reviewed and with which he agreed. He identified Appellee's Exhibit 5 as the letter to Appellant Hansberry with the results of the audit and Appellee's Exhibits 6, 7, 8 and 9 as the pertinent classification specifications. Mr. Bouchahine explained that the time period he looked at was from the date of the audit request and forward.

FINDINGS OF FACT

Since there was no discrepancy in any of the witnesses' testimony as to the duties performed by Appellant Hansberry, I find that the duties as testified to and the duties as described in Appellant Hansberry's CPQ, are, in fact, the duties that she performs.

CONCLUSIONS OF LAW

The primary consideration for this Board in determining the most proper classification for a position is if the Appellant meets the class concept as found on a

classification specification at least twenty percent of the time. Administrative rule 123-1-7-15 of the Ohio Administrative Code sets out such criteria:

Each classification title listed in this rule shall have a corresponding classification specification that sets forth the class concept and minimum qualifications. The class concept shall set forth the mandatory duties that must be satisfied at least twenty per cent of the time, unless otherwise stated in the class concept.

Following the above administrative rule and after reviewing the classifications of Program Officer 4, Development Housing Specialist, Development Finance Analyst, Community & Economic Development Manager and Senior Development Finance Analyst, and comparing those with the duties performed by Appellant Hansberry, it is clear that the best fitting classification for her is that of Senior Development Finance Analyst.

In looking at the Development Housing Specialist classification, the function statement requires the employee to administer block grants for the housing programs only. There was no evidence that Appellant Hansberry processes exclusively housing grants; therefore, this classification was rejected.

The Development Finance Analyst classification does describe some of the duties performed by Appellant Hansberry, as she meets the function statement of serving as a contract compliance officer for construction projects under the grant programs. That duty is a major component of this classification and while the evidence established that Appellant Hansberry does do this duty for approximately fifty to sixty percent of her time in March and April, the classification specification does not take into account the other major duties performed by Appellant Hansberry and the time spent on those other duties. This classification is the first level of Appellant Hansberry's current classification of Senior Development Finance Analyst, so it stands to reason that most of the duties contained on the specification are duties performed by Appellant Hansberry; it does not, however, encompass the higher level duties and is therefore not the best description of her duties.

The classification of Community & Economic Development Manager is too encompassing as it describes duties relating to both sides of the division. The evidence established that Appellant Hansberry does not have duties relating to the Economic Development Division, only that of Community Development. Appellant

Hansberry cannot meet the function statement duties of “economic development and brownfield redevelopment programs”. There was no evidence presented that Appellant Hansberry has any duties associated with the “brownfield redevelopment programs” and while some of the community development grants necessarily result in economic development, there is an entire separate division which is devoted to economic development of which Appellant Hansberry is not a part. Therefore, this classification was also rejected since Appellant Hansberry cannot meet the requirements of the function statement.

The classification of Program Officer 4’s function statement is as follows:

The purpose of this classification is to manage focused studies or projects as part of a centralized County management analysis and planning section. Studies and projects results in the development and implementation of new County facilities (e.g. – jail project) or new County services.

Appellant Hansberry cannot meet the above function statement. The evidence established that she manages and administers grants. It is her responsibility to look at the grant applications and to assist communities in their planning of projects that could be eligible for funding through several grants. Appellant Hansberry then monitors the entities to ensure that the funds are being spent for what they were approved for. She does not manage the projects which then result in facilities owned by the county, such as the jail, or that result in services which the county would be offering to its constituents.

This classification is broader in its scope than the duties performed by Appellant Hansberry. This classification has as its primary duty that of an employee managing a project through its inception, development and completion resulting in a product which belongs to the county itself. Appellant Hansberry develops ideas in conjunction with urban communities and she assists the communities in obtaining funding for their projects. At the end of project, the ownership belongs to the community, not to the county. For this reason, this classification has been rejected.

The best fitting and most descriptive classification which applies to Appellant Hansberry’s duties is that of her current classification, a Senior Development Finance Analyst. The function statement is as follows:

The purpose of this classification is to initiate and manage economic and community development programs that support business and commercial vitality.

The above statement describes Appellant Hansberry's duties. In contrast to the Program Officer 4 specification, which has as its focus creation of programs that benefit the county, this specification focuses on business and commercial benefits outside the realm of county government. The specification describes Appellant Hansberry's duties of initiating and managing community development programs through the grants; reviewing documents for compliance with state law, or, in Appellant Hansberry's case, Davis-Bacon compliance; maintaining contact with various entities and representing the county at meetings and conferences; administering and managing the Urban County Community Development Block Grant; performing research, collecting information and other related administrative duties.

While this classification is not descriptive of every job duty performed by Appellant Hansberry, it does describe most of her duties and is the best fit. Appellant Hansberry argued that she is deserving of a higher classification because she had to assume the duties of her manager when he left. She testified that when the manager was there, she assisted him with all of the duties but in his absence, she is now responsible for the duties. While it is true that the volume of her workload increased upon the exiting of her manager, she is essentially doing the same duties but with increased responsibility. Unfortunately, there is no classification which recognizes increased volume of work when the nature of the work has remained the same. Appellant Hansberry does not supervise any employees, so none of the supervisory classifications apply to her. This classification is most descriptive of her duties. This Board cannot create new classifications but instead, must find the best fitting classification for an employee within the existing classifications. In this case, that classification is Senior Development Finance Analyst.

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Therefore it is my **RECOMMENDATION** that Appellee's determination that Appellant Hansberry is properly classified as a Senior Development Finance Analyst be **AFFIRMED**.



Marcie M. Scholl
Administrative Law Judge

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