

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

Donna Wood,

*Appellant,*

v.

Case No. 2013-REC-11-0361

Department of Public Safety,  
and  
Department of Administrative Services,

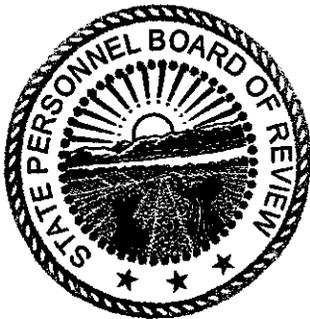
*Appellees,*

**ORDER**

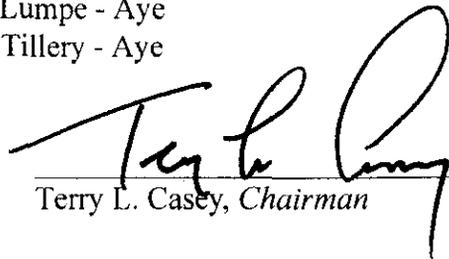
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including 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 Appellant's position be **RETAINED** in the Real Estate Specialist classification, classification number 84592.



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 constitutes (~~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, February 25, 2015.

  
\_\_\_\_\_  
*Clerk*

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

## NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

**IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD.** Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

**METHOD OF PAYMENT:** for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

**IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE March 4, 2015.** You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

**If you have any questions regarding this notice, please contact the Board at 614/466-7046.**

Case Number: 2013-REC-11-0361

Transcript Costs: \$57.00 Administrative Costs: \$25.00

Total Deposit Required: \* \$82.00

Notice of Appeal and Deposit Must  
Be Received by SPBR on or Before: March 12, 2015

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

Donna Wood,

Case No. 13-REC-11-0361

*Appellant*

v.

February 3, 2015

Department of Public Safety,

and

Department of Administrative Services,  
Human Resource Division,

*Appellee*

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause came on due to Appellant's timely appeal of the reclassification of her position. Pursuant to a study conducted by Appellee Department of Administrative Services (DAS), the classifications of Management Analyst Supervisor (MAS) 1 and 2 were removed from the state classification plan and incumbent employees' positions were subsequently reclassified. Appellant's position was reclassified from Management Analyst Supervisor 1, classification number 63215, to Real Estate Specialist, classification number 84592, effective the payroll period beginning October 20, 2013.

A record hearing was held in the instant appeal on May 28, 2014. Appellant was present at the hearing and appeared *pro se*. Appellee Department of Public Safety (ODPS) was present at record hearing through its designee, Employee and Labor Relations Administrator Julie Ann Lee; Appellee DAS was present at record hearing through its designee, Human Capital Management (HCM) Senior Analyst Morgan Webb.

Jurisdiction of the Board was established pursuant to R.C. 124.03 and 124.14.

### **CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT**

Based upon the testimony presented and evidence admitted at record hearing, I make the following findings of fact:

Appellant Donna Wood presently occupies a position assigned to the Leasing Section of Appellee ODPS' Office of Procurement Services, and classified as Real Estate Specialist. Appellant provided DAS with information regarding her job duties as part of the MAS study conducted by DAS.

Appellant's immediate supervisor is ODPS Lease Manager Jeanie Kelly. The primary purpose of Appellant's position is to act as assistant to Ms. Kelly, and to assist her in managing all aspects of the leasing process for Appellee ODPS. Appellant acts on behalf of Ms. Kelly in her absence, and serves as a liaison between landlords and customers (different ODPS departments/divisions) in determining solutions to lease and facility-related issues.

Appellant handles the administrative portion of managing leases. She negotiates terms for and prepares leases, subleases, memoranda of understanding, addenda and other legal instruments for ODPS leased sites. Appellant also coordinates relocations and renovations of leased sites.

Neither Appellant nor Ms. Kelly sign the leases that they prepare on behalf of the ODPS; the leases are actually executed by the ODPS department/division that is the client. Appellant and her supervisor develop informational material to instruct clients in the lease process.

Appellant does not supervise any other employees.

### **CONCLUSIONS OF LAW**

Pursuant to O.R.C. 124.03(A), this Board is empowered to hear appeals of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to, *inter alia*, refusal of the director of administrative services, or anybody authorized to perform the director's functions, to reclassify an employee's position, with or without a job audit

under O.R.C. 124.14(D). ORC. 124.14(D)(2) provides that the Board is to consider anew reclassifications and may order the reclassification of an employee's position to such appropriate classification as the facts and evidence warrant. The Board's decision must be consistent with the applicable classification specifications.

The primary criteria for this Board to consider when determining the most proper classification for a position are classification specifications, including the class concept, the job duties outlined, and the percentages of time devoted to each job duty. *Klug v. Dept. of Admin. Services*, No. 87AP-306, slip op. (Ohio Ct. App. 10th Dist., May 19, 1988). Unless there is a dispute as to what constitutes the classification specification, no factual issues arise with respect to the classification. Rather, as in all cases of construction, the question becomes one of law as to how the relevant facts relate to the classification specification. *Klug, supra*.

This Board must consider the relation between the classification specifications at hand and testimony presented and evidence admitted. This Board's consideration, however, is not limited solely to the duties contained in the classification specifications, but may also embrace other relevant facts submitted by any of the affected parties. *Gordon v. Dept. of Admin. Services*, No. 86AP-1022, slip op. (Ohio Ct. App. 10th Dist., March 31, 1988). The Board will consider evidence related to the job duties performed by Appellant from the date the job audit was initiated through the date of record hearing.

As a general rule, parties seeking reclassification to a higher position must demonstrate that they meet substantially all of the qualifications of the higher position. *Harris v. Dept. of Admin. Services*, No. 80AP-248, slip op. (Ohio Ct. App. 10th Dist., September 25, 1980); *Deist v. Kent State Univ.*, No. 78AP-28, slip op. (Ohio Ct. App. 10th Dist., May 23, 1978.) The incumbent need not perform every duty enumerated within the body of the specification for his or her position to fall within a particular classification specification; it is sufficient if all of the job duties actually performed fall within those specified for the classification. See *Klug, supra*.

O.A.C. 123:1-7-15, however, notes that the class concept of each classification title sets forth the mandatory duties that must be performed by an incumbent for at least twenty percent of his or her work time.

\* \* \* \* \*

The classification series for Real Estate Disposition/Administrator, Administrative Professional and Program Administrator were considered in conducting the review of Appellant's job duties.

The purpose of the Real Estate Disposition/Administrator occupation is to coordinate or administer real estate or property management activities on a regional, district or statewide basis. The class concepts for the Real Estate Disposition/Administrator series state that incumbents coordinate and/or administer real estate and/or property management activities on a regional, district or statewide basis, with supervision of staff required at all levels other than Real Estate Specialist.

Testimony and evidence presented at record hearing was sufficient to demonstrate that Appellant performs the mandatory duties required of the Real Estate Specialist classification. She negotiates, researches and prepares legal documentation for ODPS leased sites, and devotes a minimum of twenty percent of her working time to these duties. Accordingly, I find that her position may be properly classified as Real Estate Specialist.

The purpose of the Administrative Professional occupation is to function as principal clerical and administrative support for a supervisor and/or office staff, performing a variety of clerical, procedural and administrative tasks. The class concepts for the Administrative Professional series state that incumbents relieve their superior of routine and non-routine administrative tasks and perform secretarial duties, with the higher levels providing supervision to other support staff.

Information gathered at record hearing indicates that Appellant does relieve her supervisor of a variety of clerical and non-routine administrative tasks. Although the duties performed by Appellant fall generally within the scope of the duties outlined by the Administrative Professional 3 classification specification, the specification does not reflect the more specialized nature of Appellant's property management responsibilities. I note that the Administrative Professional 4 classification specification is restricted for use at the top three layers in the organizational structure of an agency, board, or commission, and is, therefore, unavailable for use in the instant matter. Appellant's position could properly be classified as Administrative Professional if another, more descriptive, classification specification were not identified.

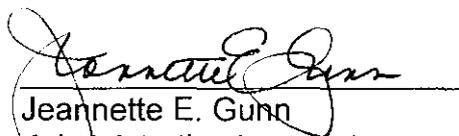


The purpose of the Program Administrator occupation is to provide program direction by relieving an incumbent's superior of administrative duties. The class concepts for the Program Administrator series state that incumbents at the lowest level relieve their superior of non-routine administrative duties; at the secondary level they relieve their superior of difficult duties; and at the highest level they relieve their supervisor of the most difficult administrative duties. At all levels, it is mandatory that incumbents formulate and implement program policy.

No evidence or testimony was presented at record hearing to support a finding that Appellant formulates program policy. Accordingly, I find that Appellant's position may not be properly placed in a classification in the Program Administrator series.

The duties performed by Appellant fulfill the class concept of both the Real Estate Specialist classification specification and the Administrative Professional 3 classification specification, however, the Real Estate Specialist classification specification more accurately reflects the job duties performed by Appellant. Pertinent case law provides that where job classifications and duties overlap and the employee arguably fits into two or more categories, the employee should be placed in the job classification that most nearly matches his actual job duties. *Smathers v. Barklage*, (Feb. 14, 1978), Franklin App. No. 77AP-669, unreported. In addition, the Real Estate Specialist classification is assigned to a higher pay range than the Administrative Professional 3 classification.

Therefore, I respectfully **RECOMMEND** that Appellant's position be **RETAINED** in the Real Estate Specialist classification, classification number 84592.

  
Jeannette E. Gunn  
Administrative Law Judge