

*In the Matter of Michael Velardi, Subcode Official (S0306R), Statewide*  
CSC Docket No. 2013-3533  
**(Civil Service Commission, decided August 15, 2013)**

Michael Velardi appeals the decision of the Division of Selection Services and Recruitment which found that he failed to meet the residency requirements for the open competitive examination for Subcode Official (S0306R), Statewide.

The subject examination was announced with a closing date of May 1, 2013, and was open to residents of the State of New Jersey who met specific license and experience requirements. The appellant was found ineligible for failure to meet residency requirements as he is a resident of Pennsylvania. It is noted that 85 candidates were admitted to the examination, which resulted in an eligible list promulgating with 84 eligibles on July 4, 2013, and expiring July 3, 2016.

On appeal to the Civil Service Commission (Commission), the appellant indicates that the Employee Residency Review Committee has granted him a hardship exemption from the residency requirements of the New Jersey First Act (P.L. 2011, c. 70) and argues that the exemption satisfies the residency requirements of this open competitive announcement. Additionally, he asserts that he is currently employed by the Department of Community Affairs in the Bureau of Housing and would not have been hired in that position if he had not obtained the residency exemption.<sup>1</sup> The appellant also states that he was employed as a Construction Code Inspector 2 in the Office of Local Code Enforcement from 2005 to 2011 and lived in Pennsylvania at that time.<sup>2</sup> In support of his contention, the appellant submits a copy of the Final Administrative Action of the Employee Residency Review Committee granting his residency exemption due to “critical need or hardship” on January 10, 2012. Additionally, the appellant submits a letter from Charles T. Herring, Regional Supervisor, who writes that the appellant would be “an excellent choice” and makes a “strong recommendation” for the appellant’s application for a position. The appellant also provides a copy of a classification determination, dated March 12, 2010, which determined he was performing the duties commensurate with the title of Subcode Official. However, he also submits a letter from the appointing authority, dated April 15, 2010, that indicates that it removed the out-of-title duties and assigned duties commensurate with his permanent title of Construction Code Inspector 2.

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<sup>1</sup> It is noted that the appellant was appointed from the special reemployment list for Inspector 3, Multiple Dwellings, effective January 30, 2012.

<sup>2</sup> Personnel records indicate that the appellant was laid off from his position of Construction Code Inspector 2 with the Department of Community Affairs, effective May 16, 2011.

## CONCLUSION

*N.J.A.C.* 4A:4-2.3(b) provides that applicants shall meet all requirements specified in the open competitive examination announcement by the closing date. This includes being a resident of the State or specified local jurisdiction except when a different residency requirement is specified by law or provided by the [Commission] or it appears that there are an inadequate number of qualified residents available for the title. *See also N.J.S.A.* 11A:4-3. *N.J.A.C.* 4A:2-11(e) states that, unless otherwise specified, residency requirements shall be met by the announced closing date for the examination.

In the instant matter, the appellant was found ineligible for the subject examination as he failed to meet the residency requirements in the announcement, *i.e.*, he is not a resident of New Jersey. It is accepted procedure that, unless there is a provisional incumbent living outside of the State, examinations for State government positions are typically open only to New Jersey residents. The appellant is not a provisional incumbent, and at the time of the open competitive announcement, the Commission had no basis to believe that an adequate number of qualified residents was not available in New Jersey. Indeed, the announcement resulted in a complete list of 84 eligible candidates who met the New Jersey residency requirement. Moreover, regardless of whether the appellant has received an exemption from the residency requirements of the New Jersey First Act for his *current* position, he does not meet the announced requirements for the subject examination. *See N.J.S.A.* 11A:4-3, *N.J.A.C.* 4A:4-2.3(b), and *N.J.A.C.* 4A:2-11(e). Thus, good cause does not exist to relax the requirements simply to admit the appellant to the examination. To do so would not be fair to the current list of eligibles as well as other non-New Jersey residents who did not apply since they, like the appellant, were not eligible at that time. *See e.g., In the Matter of Andrea Richards* (CSC, decided August 15, 2012).

A thorough review of all material presented indicates that the decision of the Division of Selection Services and Recruitment, that the appellant did not meet the announced requirements for eligibility by the examination closing date, is amply supported by the record and the appellant provides no basis to disturb that decision. Accordingly, the appellant has not met his burden of proof in this matter.

## ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.