

FRANK J. PACETTI
City Administrator



CITY OF KENOSHA
Department of Administration

June 16, 2010

TO: Dennis Jantzen, Building Inspector
FROM: Frank Pacetti, City Administrator 
SUBJ: Bumping Procedure Grievance

A Third Step grievance appeal was held in the Municipal Office Building on November 8, 2010. You were represented by your attorney, Tom Santarelli and the association was represented by Rich Baumann. Jim Schultz and Steve Stanczak represented City management.

As you are aware, the Department of Neighborhood Services and Inspections proposed to eliminate your position resulting from fiscal limitations affecting all City government. Yours was among a number of proposed position reductions throughout the City. Specifically, your grievance concerns the City's interpretation of contract language in which the City is precluding your ability to bump into another position classification in which the incumbent is less senior than yourself.

Mr. Santarelli questioned Mr. Schultz' methods of comparing qualifications and other factors between yourself and Mr. Mark Sanchez, the least senior Housing Inspector. He argued that you possess the minimum qualifications necessary to perform the functions of Housing Inspector. It was also argued that if you were retained, it would allow for a more flexible work arrangement in the field as you could perform both housing and building inspection work.

The City introduced its interpretation of relevant contract language contained under Article 8 "Layoff and Recall." Specifically, the language states that "A Department Head may deviate from seniority in layoffs when seniority alone would result in retaining an employee unable to maintain a level of performance equal to City standards." The City introduced its written comparisons of factors such as experience, certifications and disciplinary history. Mr. Schultz noted that it takes a year or two to possess the working knowledge of procedures to perform the functions of a Housing Inspector which would compromise current City standards.

Mr. Santarelli refuted the department's use of comparisons in that they were used selectively to your disadvantage.

Upon consideration of the facts presented at this hearing, I am denying the grievance. The focus of a building inspector is on new building and construction compliance. A housing inspector performs inspections of existing buildings with differing enforcement standards. In light of the disparity in actual housing inspector experience, appropriate certifications, disciplinary history, and bi-lingual skills, I find that Mr. Sanchez is fairly considered to possess City standards that exceed those of yourself, and accordingly, the City's application of the contract language is appropriate.

C: Tom Santarelli
Jim Schultz
Rich Baumann

625 - 52nd Street • Kenosha, WI 53140

Office: 262.653.4000 • Fax: 262.653.4010 • e-mail: fpacetti@kenosha.org

FACTOR	DENNIS JANTZEN	MARK SANCHEZ
Experience*	<p><u>Directly related to Housing Inspector I/II:</u> none</p> <p><u>Indirectly related:</u> 2 yrs 1 mo - Building Inspector (City of Kenosha) 3.5 yrs - Construction Project Manager 5.5 yrs - Construction Cost Estimator Owner of DCJ Home Inspections since 1999 (part-time business)</p>	<p><u>Directly related to Housing Inspector I/II:</u> 1 yr 11 mos - Housing Inspector (City of Kenosha) 6 yrs 4 mos - Code Compliance Officer II (City of Waukegan); also performed trainer duties</p>
Certifications	<p>WI Home Inspector License #1657-106 WI Commercial Bldg Inspector Certification</p>	<p>Property Maintenance & Housing Inspector (AAE) certification</p>
Degree	<p>B.S. Construction Management</p>	<p>none</p>
Probationary Reports	<p>Final overall rating of 19 on initial probation (based on ratings of 5 "Average" & 1 "Above Average")</p> <p>Currently on 1-year probation until 6/23/2011 (due to discipline below)</p>	<p>Final overall rating of 22 on initial probation (based on ratings of 2 "Average" & 4 "Above Average")</p>
Discipline	<p><u>June 2010 - 60-day suspension & last chance agreement for:</u></p> <ul style="list-style-type: none"> - performing personal work on City time - engaging in personal activity on City premises - use of City property for non-City business - giving false/incomplete information <p><u>February 2009 - verbal warning for:</u></p> <ul style="list-style-type: none"> - derogatory/racially insensitive comments 	<p>none</p>
Other Relevant Factor(s)		<p>Bi-lingual (English & Spanish)</p>

* Per Director of Neighborhood Services & Inspections, property maintenance codes & property inspection regulations, & related laws & ordinances differ significantly from building inspection codes, related laws & ordinances. In addition, experience in the construction field is vastly different than experience in property code enforcement.

Housing Inspector I/II Requirements	D. JANTZEN	M. SANCHEZ
Bachelor's degree in related field.	yes	no
Minimum of 1 year experience in housing code enforcement or environmental sanitation.	no	yes
Equivalent combination of training & experience.	no	yes
Possession of Housing Code Enforcement Certification desirable.	no	yes
Knowledge of City & property maintenance codes, & related laws & ordinances.*	no	yes
Knowledge of City regulations pertaining to inspection of property.*	no	yes
Ability to detect structural and other faults, and to appraise for quality of construction & physical depreciation.	yes	yes
Good written & oral communications skills.	yes	yes
Basic computer skills & ability to use keyboard.	yes	yes
Ability to handle reasonably necessary stress.	yes	yes
Knowledge of all types of construction materials & methods	yes	yes
Ability to consult with & enlist the cooperation of building owners, contractors & the public, & to establish effective working relationships.	yes	yes
Good judgment skills.	yes	yes

* Per Director of Neighborhood Services & Inspections, property maintenance codes & property inspection regulations, & related laws & ordinances differ significantly from building inspection codes, related laws & ordinances. In addition, experience in the construction field is vastly different than experience in property code enforcement.

OFFICIAL GRIEVANCE FORM

NAME OF EMPLOYEE DENNIS JANTZEN DEPARTMENT MSI

CLASSIFICATION _____

WORK LOCATION _____ IMMEDIATE SUPERVISOR Nick Torcivia

TITLE Res. Building Inspector

STATEMENT OF GRIEVANCE:

List applicable violation: NOT following employment contract regarding bumping

Adjustment required: follow contract and allow bumping

I authorize Rich Baumann as my representative to act for me in the disposition of this grievance

Date 10-26-10 Signature of Employee DJ Jantzen

Signature of Representative Rich Baumann Title Pres - Inspec. Assoc.

Date Presented to Management Representative 10/26/10

Signature Steve Stanzel Title _____

Disposition of Grievance: _____

THIS STATEMENT OF GRIEVANCE IS TO BE MADE OUT IN TRIPLICATE. ALL THREE ARE TO BE SIGNED BY THE EMPLOYEE AND/OR THE REPRESENTATIVE HANDLING THE CASE.

ORIGINAL TO _____

COPY _____

*cc - Jantzen
10/27/10*

NOTE: ONE COPY OF THIS GRIEVANCE AND ITS DISPOSITION TO BE KEPT IN GRIEVANCE FILE

DEPARTMENT OF
NEIGHBORHOOD SERVICES
AND
INSPECTIONS

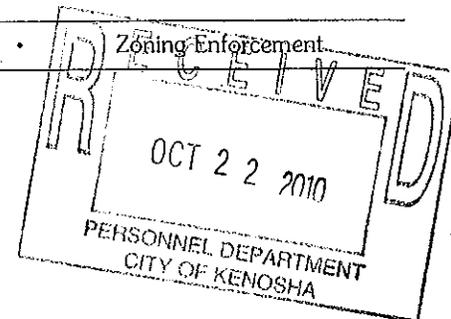
JAMES M. SCHULTZ
Director



Building Inspection

Property Maintenance

Zoning Enforcement



TO: Dennis C. Jantzen, Building Inspector
Department of Neighborhood Services and Inspections

FROM: James M. Schultz, Director 

SUBJECT: Grievance Decision

DATE: October 20, 2010

A hearing was conducted on October 19, 2010, regarding the grievance you filed about the layoff procedure as specified in Article 8 of the Labor Agreement between the City of Kenosha and the City of Kenosha Building Inspectors' Association. Persons in attendance included you, Nick Torcivia, Supervisor of Building Inspection, Richard Baumann, Association President, and me.

Items discussed included a review of the layoff policy and the factors considered by the Department Head when deviating from seniority in layoffs as listed in Article 8.

Based on my review of the appropriate factors, plus additional information discussed at the hearing, I am reaffirming the decision conveyed in the letter to you dated October 11, 2010, from Steve Stanczak, Director of Human Resources and Labor Relations, that you do not have any contractual bumping rights.

JMS:kah

c: Frank J. Pacetti, City Administrator
Steve Stanczak, Director, Human Resources
Richard H. Baumann, President, Inspectors' Association

625 - 52nd Street - Room 205
Kenosha, Wisconsin 53140
Phone (262) 653-4130
Fax (262) 653-4127
Jobline (262) 653-4137
www.Kenosha.org



**DEPARTMENT OF
HUMAN RESOURCES**
Steve M. Stanczak - Director
Labor Relations
Recruitment & Selection
Employee Benefits

October 11, 2010

Mr. Dennis Jantzen
820 - 97th Street
Pleasant Prairie, WI 53158

Dear Mr. Jantzen:

I am in receipt of your request to exercise your bumping rights under the collective bargaining agreement. Before addressing your request, I will advise you that the staffing recommendation that affects your position is *proposed* through the Mayor's budget and will be considered by the Council through their committee meetings. It's formal adoption of the budget, with amendments as deemed appropriate, December 2, 2010.

The reference that you rely upon is contained under Article 8 of the labor agreement . The City acknowledges said language respecting layoff and recall rights of employees. However, in applying the applicable language contained therein, the City's position is to deny your bumping request.

Specifically, the contract states that "a department head may deviate from seniority in layoffs when seniority alone would result in retaining an employee unable to maintain a level of performance equal to City standards." In applying this standard, the department head has weighed factors such as experience, work performance, certifications obtained, and other factors as deemed appropriate. Based upon this analysis, the department determined that you do not have any contractual bumping rights.

I am sorry that this is not the information that you wish to hear. Should the staffing recommendation that affects your position be approved by the Common Council, my office will provide you with the necessary documents and information to assist you.

Sincerely,

A handwritten signature in black ink that reads "Steve Stanczak".

Steve M. Stanczak
Director of Human Resources & Labor Relations

c: Jim Schultz
Rich Bauman

HOUSING INSPECTOR I

DEPARTMENT: Neighborhood Services & Inspections

CHARACTERISTICS OF THE CLASS

This is entry level professional work involving responsibility for the enforcement of various State and City laws, ordinances and regulations pertaining to a wide variety of areas in the field of property maintenance. Employees in this class make personal inspections of vacant and occupied residential and commercial properties for the purpose of securing compliance with the City of Kenosha's Property Maintenance Code. The work is performed under the general direction of the Supervisor of Property Maintenance; however, the employee is expected to exercise some independent judgment and discretion in achieving program and departmental objectives and solving problems in their areas of work. Performs other related duties as necessary. This classification underfills the position of Housing Inspector II.

EXAMPLES OF ESSENTIAL DUTIES & RESPONSIBILITIES (illustrative only):

- Conduct interior and exterior inspections of residential properties.
- Conduct exterior inspections of commercial and vacant properties.
- Conduct interior and exterior inspections of lodging houses.
- Provide advisory notices, verbal orders, or written orders for all violations of City property maintenance standards.
- Respond to all complaints in a timely fashion in accordance with Division priority guidelines.
- Manage open case load through daily updates of case activity in the case management system, maintaining case files, documentation, and related correspondence.
- Perform all re-inspections in a timely fashion.
- Work with property owners to achieve compliance.
- Issue municipal citations to property owners who fail to make needed repairs.
- Work with the City Attorney's office on individual cases; prepare court documentation; attend court proceedings; testify at trials.
- Work with subcontractors and prepare all required paperwork, when necessary, for board-up and grass/weed cutting services.
- Respond to inquiries from tenants, property owners, City officials, and City staff.
- Provide referrals to other City departments and agencies.

OTHER REQUIRED DUTIES AND RESPONSIBILITIES (illustrative only):

- Accumulate property data, photographs, and related information for program and policy development.
- Attend meeting to explain City and program policies and procedures.
- Assist in providing grant assistance to low-income homeowners with housing

violations on their properties.

Assist Department staff in preparing written reports/analyses on potential building raze projects.

Work with building inspection, zoning, and clerical staff.

Perform related duties and tasks as assigned by the Supervisor, Department Director and/or City Administration

NOTE: *The duties listed above are intended as illustrations of the various types of work performed by persons in positions covered by this classification specification. This list is not all inclusive. The omission of a particular job duty does not mean that the duty is not one of the essential functions of the position. Management reserves the right to assign employees in this classification to duties not listed above, if the duties are fairly within the scope of responsibilities applicable to the level of work performed by employees in positions covered by this classification specification. This classification specification does not create an employment contract between the City and the employee and is subject to change by the City as the needs of the City and the department change over time.*

REQUIREMENTS:

Training & Experience:

·Bachelor's degree from an accredited college or university in public health, construction or related field;

Supplemented by one (1) year of experience in housing code enforcement or environmental sanitation;

Or an equivalent combination of training and experience.

Possession of Housing Code Enforcement Certification is desirable.

Knowledge, Skills and Abilities:

·Knowledge of all types of construction materials and methods, and when possible violations and defects may most easily be observed and corrected.

Knowledge of city and property maintenance codes, and related laws and ordinances.

Knowledge of City regulations pertaining to the inspection of property.

Ability to detect structural and other faults, and to appraise for quality of construction and physical depreciation.

Ability to consult with and enlist the cooperation of building owners, contractors, and the public and to establish effective working relationships.

Ability to maintain records and prepare reports.

Good judgment skills.

Good written and oral communications skills.

Ability to handle reasonably necessary stress

Physical Requirements:

·Task involves frequent walking; standing; some lifting and carrying objects of moderate weight (12-20 lbs); and/or the operation of vehicles, office, shop keyboard, or hand tools in which manipulative skills and hand-eye coordination are important ingredients of safe and/or productive operations.

Environmental Requirements:

Task may require frequent exposure to adverse environmental conditions.

Sensory Requirements:

·Task requires color perception and discrimination. ·
Task requires sound perception and discrimination. ·
Task requires odor perception and discrimination. ·
Task requires depth perception and discrimination. ·
Task requires visual perception and discrimination. ·
Task requires oral communications ability.

Additional Requirements:

Possession of a valid driver's license and a good driving record. ·
Must provide a personal vehicle for use on the job (proof of vehicle insurance with a minimum coverage of \$100,000/\$300,000 is required).

FLSA Status: Non-Exempt

/u2/acct/prsn/psueh/SHARE.PRSN/JobClass/Inspectors/HousingInspectorI

ARTICLE 7 - SENIORITY

Definition.

Seniority shall mean the status attained by length of continuous service following the successful completion of the probationary period. Seniority shall accrue from the date an employee entered or reentered employment with the City and shall indicate time worked excluding unpaid leaves of absence exceeding thirty (30) days and layoffs, but including leaves of absence granted for United States military service.

Loss of Seniority.

Employees shall lose their seniority for any of the following reasons:

- A. Discharge, if not reversed by Civil Service.
- B. Resignation.
- C. Absence from work without a legitimate reason for three (3) consecutive workdays without notifying the City of the reason for such absence. This employee shall be considered as having resigned.
- D. Unexcused failure to return to work when recalled from a layoff as set forth in the recall procedure.
- E. Unexcused failure to return to work after the expiration of a vacation period, leave of absence, or period for which worker's compensation was paid.
- F. Retirement.
- G. On layoff for a continuous period of time equivalent to twelve (12) or more calendar months.
- H. Accepting other employment while on a leave of absence, unless such leave was granted to allow other employment.

Promotion Out of Bargaining Unit.

Employees who are promoted to a position not included in the bargaining unit and who return to a position in the bargaining unit shall be credited with seniority equivalent to their length of continuous service prior to the promotion.

ARTICLE 8 - LAYOFF AND RECALL

Layoff shall mean the separation of an employee from the active work force due to lack of work or funds or occurrence of conditions beyond the control of the City or where such continuation of work would be wasteful or unproductive.

The layoff of regular employees in any department shall be in inverse order of seniority in the classification within the department affected, except as hereafter provided. A Department Head may deviate from seniority in layoffs when seniority alone would result in retaining an employee unable to maintain a level of performance equal to City standards. Prior to layoff notice being issued to an employee represented by the Association, the City will meet with Association representatives.

Recall From Layoff.

- A. The names of employees laid off through no fault of their own shall remain on a departmental call list for a period equal to twelve (12) calendar months from date of layoff.
- B. Employees recalled from layoff shall be given a maximum of five (5) working days to respond after notice has been sent by certified mail to their last known address on file with the City Personnel Department and five (5) workdays to resume work. This notice shall constitute sufficient notice of work availability.
- C. Employees who fail to respond to or decline a call to return to work within the time limits provided above shall be presumed to have resigned. The names of such employees are to be removed from the seniority list and, if they are subsequently re-employed, they shall return to work as new employees.

Employees who are scheduled for layoff may replace employees of lower job classifications within the same department provided that they have more seniority than the person occupying the lower job classification and they are qualified to perform the duties of the lower job classification.

Employees with greater seniority who by reason of a layoff replace other employees in lower job classifications shall be restored to their former classification when such a position becomes available. If such employee, when offered job restoration, declines the job, the employee's right to the job shall be forfeited. However, such employee shall not be prohibited from bidding on future vacancies in that job classification.

ARTICLE 9 - GRIEVANCE PROCEDURE

A grievance is a claim or dispute by an employee of the City concerning the interpretation or application of this Agreement. To be processed, a grievance shall be presented in writing with a copy to the Personnel Department under Step 2 within ten (10) days after the time the employee affected knows or should know the facts causing the grievance. Grievances shall be processed as follows:

Step 1. The employee and/or his Association representative shall attempt to settle the issue with the immediate supervisor.

Step 2. If the issue is not settled, then the employee, his representative, and the immediate supervisor shall attempt to settle the issue with the Department Head. Such issues shall be in writing stating fully the details of the grievance and shall be submitted within five (5) working days of Step 1. The Department Head shall hear the grievance within five (5) working days and shall render his decision in writing within five (5) working days of the hearing.

Step 3. If a satisfactory settlement is not reached as outlined in Step 2, the grievance may be submitted to the Mayor or his designate, who shall

supervisor. This must be done within five (5) work days of the receipt of the supervisor's Step 1 reply. The Step 2 official shall provide a written answer within five (5) days.

Step 3. If the employee is still not satisfied and wishes to pursue the matter further, he shall, within five (5) work days of receipt of the Step 2 decision, send copies of the entire correspondence to the head of his department, requesting a review. The Department Head shall make such investigation as necessary and deliver his answer to the employee within ten (10) work days.

Step 4. If an employee is still not satisfied and wishes to pursue the matter further, he shall within five (5) work days following receipt of the Step 3 decision, send copies of the entire correspondence to the Supervisor of Personnel, who shall meet with the employee and make whatever further investigation he deems necessary. If, in accordance with these Rules, the matter should be handled by the Civil Service Commission or by some other process, he shall direct it accordingly, so that it is properly and promptly resolved. Otherwise, he shall make a complete report to the Mayor, or the Mayor's designee, whose decision will be final.

4. Grievance

- a. At any other than the first oral discussion with the immediate supervisor, the employee may be represented if he so chooses.
- b. If a supervisor find that he does not have the authority to adjust a given grievance, he shall forward it to the level possessing this authority of the Civil Service Commission, he shall forward it to the Supervisor of Personnel in his capacity of Secretary to the Commission.

XV. Reduction In Force

1. In the event that it becomes necessary because of lack of work or funds, or through department reorganization, or if it becomes advisable in the interest of economy to reduce staff, the following procedures shall govern the layoff:
 - a. The reason for such layoff must be reported in writing to the Personnel Director and must stipulate the classifications and number of positions to be affected.
 - b. The Department Head will determine, in consultation with the Personnel Director, the organization units to be affected, and the number and classifications of employees. This plan will then be submitted to the Common Council for approval.
 - c. The layoff will be made by laying off the employees in the classes to be affected. Probationary employees, if any, shall be laid off first with the selection of persons for layoff to be made at the discretion of the Department Head.

From that point on, if employees are to be laid off who hold permanent appointments, Department Heads shall consider such factors as the quality of performance and length of service of employees affected in order to maintain a level of service equal to City standards. For positions represented by a Collective Bargaining Agreement, the layoff terms of that Agreement shall apply.

When an employee is laid off from a class higher than the entrance class, he shall have the option of demotion to a lower class in the same department, provided the Supervisor of Personnel finds that he is qualified to perform the duties of such lower class and that no other permanent employee with greater performance ratings and length of service would be laid off as a result of the demotion.

Any employee will be given a minimum of fifteen (15) working days notice of layoff whenever possible. In extraordinary circumstances, the fifteen (15) day period may be waived with the approval of the Personnel Director.

XVI. Resignations

Any employee resigning from his position should give a minimum of two (2) weeks advance notice of his intention to enable the City to make proper provisions for the filling of his position, unless otherwise agreed to by the City.

An employee failing to give such proper notice may be considered as having left the service not in good standing. All resignations except as specified in XIII, 2a shall be in writing and shall be filed with the Supervisor of Personnel. An employee who has resigned in good standing may be reinstated within one (1) year following his resignation at the discretion of the Supervisor of Personnel and the appointing authority, and as provided in Rule VII.

XVII. Certification Of Payrolls

1. No person shall be paid unless he has been properly appointed or promoted in accordance with the Civil Service System Ordinance and these Rules and Regulations.
2. No person shall be placed on the payroll, or any title or pay rate changed, without the written authorization of the Supervisor of Personnel.
3. Any payment made to such a person shall be recoverable from the person or persons responsible for the illegal payment.
4. The Supervisor of Personnel and/or Personnel Director is authorized to examine any payroll or voucher in order to assure compliance with these Rules.

XVIII. Records And Reports

1. Personnel Transactions. All appointments, separations, and other personnel transactions shall be made on forms designated by the Supervisor of Personnel.
2. Inspection of Records. All information obtained in background investigations of applicants, all material pertaining to examinations, and all evaluations of employee performance and/or promotional potential shall be considered confidential; provided, an employee may inspect his own written examination papers and evaluations of his own performance and/or promotional potential.