

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CFB 403-04

AGENCY NO. LFB -02-011

LOCAL FINANCE BOARD,

Petitioner,

v.

DOLORES TOUSSIANT

COMMITTEEWOMAN,

Respondent.

Patricia E. Stern, Deputy Attorney General, for petitioner (Peter C. Harvey, Attorney General of New Jersey, attorney)

John Morelli, Esq., for respondent

Record Closed: January 14, 2005

Decided: January 14, 2005

BEFORE **W. TODD MILLER**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Local Finance Board (Board or LFB) asserts that respondent was involved in a conflict of interest and thereby violated *N.J.S.A. 40A:9-22.5(d)*. Respondent, an elected Committeewoman in Waterford Township, voted to repeal mandatory water connection ordinance. The impacted territory included a business owned or operated by respondent. On August 13, 2003, the LFB issued a Notice of Violation finding that respondent violated *N.J.S.A. 40A:9-22.5(d)*. A \$100 fine was imposed and then waived. On December 4, 2003, respondent requested an administrative hearing. On February 4, 2004, the matter was received by the Office of Administrative Law (OAL) as a contested case pursuant to *N.J.S.A. 52:14B-1 to -15* and

N.J.S.A. 52:14F-1 to -13. A telephone prehearing conference was held on May 13, 2004. The issues to be addressed were resolved and the parties agreed to submit cross-motions for summary decision. Cross-motions were filed on December 1, 2004 by respondent and on December 6, 2004, by petitioner. A letter and attached Affidavit of Dolores Toussaint in opposition to petitioner's position was filed on December 15, 2004 by respondent. The record closed on January 14, 2005.

SUMMARY OF RELEVANT FACTS

Respondent, Dolores Toussaint, is an owner of the New Atco Diner, located at 348 White Horse Pike, in Waterford Township. On July 19, 2001, the Township Committee adopted Ordinance 2001-16 requiring that every owner of a building or structure with access to the municipal water system, establish a connection to the municipal system, and immediately remove and discontinue the use of any private well. (Petitioner's Exhibit B.) At the time the July 19, 2001, mandatory hook up ordinance was voted upon, Dolores Toussaint, as a private citizen, submitted a petition in opposition to the mandatory connection to a water system that contained 1300 signatures. On November 6, 2001, Dolores Toussaint was elected as Committee Woman of the Township of Waterford and was acting in that capacity on February 13, 2002, the date of the alleged violation. (Petitioner's Exhibit A.) Dolores Toussaint ran for Township Committee on a platform centered on the dissolution of the Municipal Utilities Authority and repealing the mandatory hook up ordinance. Dolores Toussaint promised to vote for repeal of the mandatory hook up ordinance if elected.

On December 5, 2001, Toussaint was served with a notice requiring the New Atco Diner connect to the public water system. (Petitioner's Exhibit C.) The New Atco Diner was one of 290 business or residential establishments that were subject to the mandatory connection law, out of a total of 4100 households within the township. (See Certification of Ursula D. Baker.) Following the adoption of the mandatory water hook up ordinance (Ordinance No. 2001-16), a lawsuit was filed with the New Jersey Superior Court entitled *Cassmiro DeLaurentis, Jr., et al v. The Township of Waterford Township Committee and Waterford Township*, Docket Number L-5524-01.

A regular meeting of the Township Committee of the Township of Waterford was held on February 13, 2002. Among the agenda items was a proposed ordinance to repeal the mandatory connection law. Dolores Toussaint disclosed to the public and fellow committee members that she believed she had no monetary interest or benefit from voting upon a repeal of the mandatory water hook up requirement. Acting as an elected committee member, Toussaint moved for adoption of the proposed repeal ordinance, and cast a vote in its favor. The motion was passed by a four to one vote and the ordinance – Ordinance No. 2002-1 – was adopted. (Petitioner’s Exhibits D and E.) In deciding to repeal Ordinance No. 2001-16, the Township Governing Body reconsidered the opposition of the residents to a mandatory hook up and concluded that Ordinance No. 2001-16 does not promote the public health and welfare of the residents of the Township of Waterford.

Prior to the vote, various committee members solicited a legal opinion from the township counsel, Nelson C. Johnson, regarding eligibility to vote on the repeal ordinance. By letter dated January 7, 2002, Johnson advised that any member who owned property within the area covered by the mandatory connection law should recuse themselves from the vote. In Johnson’s opinion, the ownership of property within the impact area constituted a prohibiting interest, in violation of statutory and common-law conflict of interest principles. (Petitioner’s Exhibit F.)

Toussaint did not solely rely on Johnson’s opinion; rather, prior to attending the February 13, 2002 meeting, Dolores Toussaint had consulted with and obtained opinions from two attorneys concerning a possible conflict of interest. George J. Botcheos, Esquire advised Toussaint that, in his opinion, it would not be a conflict for her to vote upon the ordinance repealing the mandatory water hook up ordinance. A summary of Mr. Botcheos’ opinion is set forth in a letter dated June 8, 2004, and he relied up a book written by Michael Pane on Local Government Ethics as well as his 26 years experience in representing municipal governments in rendering the opinion to Toussaint. Toussaint also received an opinion from George Geist, Esquire, that she had no conflict in voting on the ordinance to appeal the mandatory connection. (See Affidavit of Toussaint, ¶14.)

On February 13, 2002, Philip Comisky was the Vice chairman of the Waterford MUA. On April 29, 2002, the LFB received a complaint against Toussaint from MUA Vice Chairman,

Philip Comisky, alleging that Toussaint had a financial interest in the repeal ordinance, and should have recused herself from the vote. According to the complaint, Toussaint saved approximately \$4,750 as a result of the ordinance, itemized as follows: \$2,000 for the connection fee; \$70 for the application fee; \$575 for 1” water service; \$250 for 1” water meter; \$350 for a meter pit, and an estimated \$1,500 for plumbing and permit costs associated with installation of a water service connection. (Petitioner’s Exhibit G.)

By letter dated February 24, 2003, the Board notified Toussaint that an ethics complaint had been filed against her, and that the Board was undertaking a formal inquiry. (Petitioner’s Exhibit H.) Toussaint’s attorney responded with a brief on Toussaint’s behalf, contending that: (1) the repeal ordinance was a subject of general public concern upon which Toussaint had campaigned, and therefore did not present a conflict of interest, and (2) Toussaint had no financial incentive to vote for the repeal ordinance because she believed the \$2,000 connection fee would be waived, and that connection to the public water system would increase the value of her property.¹ The brief also pointed out that Toussaint had relied on the legal advice of two attorneys.

LEGAL DISCUSSION AND ANALYSIS

The rules governing practice in the OAL provide that a Motion for Summary Decision may be granted if there is no genuine issue of material fact and the moving party is entitled to prevail as a matter of law. This provision mirrors the language of Rule 4:46-2 and the Supreme Court’s decision in *Judson v. Peoples Bank and Trust Co. of Westfield*, 17 N.J. 67 (1954). Under N.J.A.C. 1:1-12.5(b), the determination to grant Summary Judgment should be based on the papers presented as well as any affidavits, which may have been filed with the application. In order for the adverse, *i.e.*, the non-moving party to prevail in such an application, responding affidavits must be submitted showing that there is indeed a genuine issue of fact, which can only be determined in an evidentiary proceeding. The Court in *Brill v. Guardian Life Insurance Co.*

¹ Beginning in May of 1990, the Waterford Township Municipal Utilities Authority offered property owners a free water installation fee if they would sign off on an easement in favor of the MUA. The New Atco Diner was one of the landowners offered a free water installation in exchange for the easement.

of American, 142 N.J. 520, 523 (1995), set the standard to be applied when deciding a Motion for Summary Judgment. Therein the Court stated:

The determination whether there exists a genuine issue with respect to a material fact challenged requires the Motion Judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party... are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party.

If the non-moving party's evidence is merely colorable, or is not significantly probative, summary judgment should not be denied. See *Bowles v. City of Camden*, 993 F. Supp. 255, 261 (D.N.J. 1998).

Based on the Briefs and Affidavits presented by the parties I **FIND** that there is no genuine issue of material fact and the cross-motions can be decided summarily.

The Local Government Ethics Law, N.J.S.A. 40A:9-22.1 *et seq.*, was enacted in 1991 to establish a statewide code of ethics for the officers and employees of local governments. The standards of conduct prescribed by the Law are applicable to all local government officers and employees, including individuals such as the respondent who serve as elected members of municipal councils. N.J.S.A. 40A:9-22.3(f) and (g).

The Law recognizes that public office and public employment are a public trust, and that the democratic form of government depends upon the public's confidence in the integrity of its elected and appointed representatives. N.J.S.A. 40A:9-22.2. Even the perception of unethical conduct can seriously damage that public trust and confidence. N.J.S.A. 40A:9-22.2. Thus, proof of actual dishonesty, or an actual conflict of interest, need not be shown to establish a breach of the Law." *Shapiro v. Mertz*, 368N.J. Super. 46, 51 (2004), citing *Wyzkowski v. Rizas*, 132 N.J. 509, 524 (1993). In each case, the decisive question is "whether the circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the official to depart from his sworn public duty." *Itallie v. Franklin Lakes*, 28 N.J. 258, 268 (1958); *See also Griggs v. Borough of Princeton*, 33 N.J. 207, 219 (1960).

The specific allegation against respondent is that she violated *N.J.S.A. 40A:9-22.5(d)*, which provides:

No local government officer or employee shall act in his or her official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity or independence of judgment.

In *Cranberry Lake Quarry Co. v. Johnson*, 95 *N.J. Super.* 495, 520 (App. Div. 1967), *cert. denied*, 50 *N.J.* 300 (1967), the Court was confronted with conflict issues analogous to the present matter. The township passed an ordinance dealing dust and policing of a mining operation. The township committeemen sold stock in the quarry, prior to the vote. The committeemen had some residual interest in quarry since they were still shareholders of record on that date. *N.J.S.A.14:10-5* and 6. In *Cranberry*, the Court distinguished between quasi-judicial functions and legislative functions. The Court observed:

We regard the ordinance as legislative, prescribing, as it does, general rules of conduct rather than imposing burdens or conferring privileges in specific cases based on specific findings. *Kuberski v. Haussermann*, 113 *N.J.L.* 162, 168 (Sup.Ct.1934). Our courts have indicated a disposition to treat conflicts of interest more strictly in relation to quasi-judicial acts than legislative acts. *Aldom v. Borough of Roseland*, 42 *N.J.Super.* 495, 508, 127 *A.2d* 190 (App. Div. 1956); *Pyatt v. Mayor, etc., of Dunellen*, 9 *N.J.* 548, 554, 555, 89 *A.2d* 1, 3 (1952). With **legislative acts** invalidation ordinarily results only if the act is **'tainted with fraud, or palpably not in the service of the public interest, or otherwise a clear perversion of power,'** whereas **quasi-judicial acts** fall if there is found 'private interest at variance with the **impartial performance of * * * public duty.**' *Pyatt*, at pp. 554, 555, 89 *A.2d* at p. 4. [Emphasis added]

Cranberry Lake Quarry Co. v. Johnson, 95 *N.J.Super.* at 520

The Court in *Cranberry* concluded and held:

On the whole, mindful of our courts' long-standing reluctance to interfere with municipal legislation save in cases of **clear abuse and perversion of power**, we are not constrained to invalidate the re-passed ordinance on the basis of the residual stock interests then retained by the individual defendants. We have perceived no irregularity in their attempt to divest themselves of the stock prior to passage of the ordinance in November 1962 and only a seemingly fortuitous retention of interest on their part thereafter. **No showing of fraud has been**

demonstrated, nor does the ordinance appear to involve a disservice to the public.

Ibid.

Both petitioner and respondent cite several cases that involve zoning or planning boards. Quasi-judicial determinations made by zoning or planning boards are scrutinized under a different and stricter standard. *Cranberry Lake Quarry Co., supra*. Legislative determinations are scrutinized more liberally or flexibly for obvious reasons. In theory, every vote by a legislative body could be perceived as self-interested. For example, a bond ordinance for a recreation park could significantly increase property taxes, impact local traffic on the elected officials street, benefit the children of the elected official, increase or decrease their property value if they reside nearby. Similarly, a vote on increasing the local water or sewer bill presents a self-interest. The determination whether a particular interest is sufficient to disqualify a board member is necessarily factual in nature and depends upon the circumstances in each case. *Wyzykowski, supra*, 132 N.J. 509, 523, (1993) (citing *Van Itallie v. Franklin Lakes*, 28 N.J. 258, 268 (1958)). The bottom line is dictated by a practical feel of the situation absent controlling authority. "The question will always be whether the circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the official to depart from his sworn public duty." *Ibid.* It is not necessary to demonstrate actual proof of dishonesty because only the potential for conflict is necessary. *Id* at 524 (citing *Aldom v. Borough of Roseland*, 42 N.J. Super. 495, 503, 127 A.2d 190 (App. Div. 1956)). A conflicting interest arises when a public official has an interest not shared in common with the other members of the public. *Griggs v. Borough of Princeton*, 33 N.J. 207, 220-21(1960), *McNamara v. Saddle River*, 60 N.J. Super. 367, 378 (Law Div. 1960), *affirmed per curiam*, 64 N.J. Super. 426 (App. Div. 1960).

Michael A. Pane, a recognized expert in Local Government Law, addressed potential conflicts that arise from legislative actions and stated:

The first point to be made in the area of legislative action is the rather general point that Courts do recognize that elected officials represent a variety of constituencies and are charged with solving a variety of problems. Thus, in the context of local government and in making decisions, it is not unusual for an elected official to vote on legislation promised in a campaign or to vote on

legislation which benefits a particular group of constituents-sometimes even including that public official. As one case put it-a disqualification should not result from “a personal interest in the welfare in the community” nor “the interest of nearly all businessmen in the borough in the general improvement of their businesses.” Put another way in 1965 by the New Jersey Supreme Court:

...the interest which disqualifies a member of the governing body in such a situation is a personal or private one and not such an interest as he has in common with all other citizens or owners of property. [*Kramer v. Board of Adjustment of Sea Girt*, 45 N.J. 268,282 (1965)]

In other words, the fact that someone has campaigned for office or made a public statement about an issue of vital public concern does not represent a disqualifying interest to that person’s taking action as a public official after that statement.

Similarly, favoring legislation or any policy or measure which is for the benefit of the whole community or a large segment thereof is not an action for which one is subject to censure. **Going a step further, one could even state that voting for a project or passing an ordinance which will benefit a particular neighborhood or a significant number of constituents or a particular facet or segment of the entire community would not be questionable.** For example, a vote to build a municipal part in one’s neighborhood does not raise questions of conflict of interest absent other circumstances. On the other hand, a vote to put a park immediately next to one’s home, thus creating a more substantial benefit for the public official than is received by others, is clearly a vote subject to serious question. The key here probably is the extent of the individual benefit conferred and the number of other citizens similarly situated and receiving benefits with the public official. [Emphasis added]

Pane, *New Jersey Practice* § 9.8 at 12 (3d ed.1999),

Applying the rationale of the aforementioned cases and the analysis set forth by Michael Pane, I **FIND** and **CONCLUDE** that the actions of respondent did not violate *N.J.S.A. 40A:9-22.5(d)*. Respondent’s vote on February 13, 2002, was a legislative action not a quasi judicial function. Legislative actions are scrutinized differently because of the inherent potential for conflicts. *Cranberry Lake Quarry Co. v Johnson*, 95 N.J. Super. at 520. The facts reflect that respondent had a direct or indirect financial interest in the repeal of a mandatory water connection ordinance # 2002-1. If the ordinance was repealed, respondent would avoid paying some or all of the associated fees and costs for a water connection. The Local Finance Board is correct that respondent’s vote does raise a threshold concern regarding a direct financial interest.

However, respondent's interest was similar to 290 other properties initially impacted by the ordinance. (Petitioner's brief at page 2, 11). Her interest was disclosed both publicly and in the Local Government Ethic Law Financial Disclosure Statement. (Petitioner's brief-exhibit A). She sought the opinions from the township counsel as well as two other attorneys. (Certification of Toussaint-exhibit F). The opinions were conflicting. Two attorneys opined that if she participated in the vote it would not be a conflict while the township council opined it was a conflict. The easiest path would have been for respondent to recuse herself, particularly since there were sufficient votes to repeal the ordinance in her absence. Respondent's stated goal in opposing the mandatory water connection ordinance was clearly expressed during her campaign. Respondent's campaign literature states in part: "With all of the problems currently facing our great nation, and troubling economic times, Waterford residents do not need to be burdened with expensive installation and connection fees or threats of liens against their homes. (Petitioner's Exhibit K.)

There is an inherent conflict in almost all major actions initiated and voted upon by elected official. Here, respondent sought to fulfill her campaign platform to a significant section of the community. She received over 1300 signatures on a petition against the mandatory connection ordinance. (Affidavit of Toussaint-¶ 6). Twenty-four members of the community spoke out against the mandatory connection ordinance before the vote on February 13, 2002. (Petitioner's brief-exhibit D). Two Hundred and ninety properties would be impacted. Fees in the amount \$4,750 would be incurred by 290 property owners. From all indications, the ordinance had wide spread implications across a significant section of the township. The ordinance drew attention that was well beyond the isolated business interest of respondent. The language contained in the ordinance supports this proposition. It provides, in relevant part, as follows:

Section 1. The owner of **every existing house, building or structure**, and the owner of every house, building or structure hereafter to be constructed or acquired, which may be occupied or used by human beings, located on a street adjacent to and along the line of **any water main now or hereafter constructed** or acquired within the Township...

[Emphasis added]

(Petitioner's Exhibit B.)

It is obvious from the language of the ordinance it impacts more than 290 property owners. Water is a basic service or utility provided by the municipality or a private corporation. The language contained in the ordinance suggests that it had Township wide implications. The ordinance itself is not confined to 290 property owners. For instance, the ordinance states that “every existing house, building or structure to and along the line of any water main now or hereafter constructed or acquired.” The implications of the language of the ordinance are that any home within the municipality may be subject to the mandatory connection once a water main is installed. Therefore, while the facts offered by petitioner urge that respondent’s action did not have broad Township wide implications, I **FIND** that the language embodied in the ordinance had broad and sweeping implications well beyond the 290 properties initially impacted by the mandatory water connection ordinance. Notably, if any property owner failed to abide by the mandatory connection ordinance, they were subject to a \$1,000 fine and/or jail term not to exceed thirty (30) days as well as other associated costs. (Petitioner’s Exhibit B.)

There is no magic formula to measure when an elected officials interest shift from personal to general public concern sufficient to remove it as a conflict. As stated by Michael Pane “Going a step further, one could even state that voting for a project or passing an ordinance which will benefit a particular neighborhood or a significant number of constituents or a particular facet or segment of the entire community would not be questionable.” Pane, *New Jersey Practice* § 9.8 at 12 (3d ed.1999). The ordinance had even broader appeal to the community, if the water extension was intended to be expanded to the entire community, and this was only the first phase. It’s hard to envision a water system for only a limited section of the community. Hence, 1300 signatures were received while only 290 properties were presently impacted. It appears the community at large was concerned because of the significant attention generated. I therefore **FIND** the water ordinance had township wide implications.

Petitioner has a sworn “duty” to “ethically” represent her constituents. She campaigned on repealing the ordinance. Her promise was to the voters who elected her. Had she not voted on February 13, 2002, she may have disenfranchised those who elected her, by not firmly opposing the mandatory connection ordinance. Here, there is no evidence that respondent placed her direct business interest above or ahead of her constituents. Given the amount of pre-vote disclosure, the various opinions of counsel, the campaign against the mandatory water connection, the petition

containing 1300 signatures, the public comment and other publicity and the general public implications of the ordinance, it is hard to conclude that the “circumstances could reasonably be interpreted to show that they had the likely capacity to tempt the [respondent] to depart from [her] sworn public duty.” *Itallie v. Franklin Lakes*, 28 N.J. at 268; *Griggs v. Borough of Princeton*, 33 N.J. at 219. In other words, respondent may have benefited from her vote but so did many of her constituents. But the vote was not isolated and personal to respondent. There was a genuine, good faith public concern about the financial impact of a mandatory water connection. The rationale for her vote is reflected in the minutes from February 13, 2002, which provide:

Committeewoman Toussaint commented that she and Jane went to the Infrastructure Trust and they were informed that the State is not requiring the water connection to be mandatory. The Infrastructure Trust told them if you can make your constituents happy by repealing the mandatory water ordinance then repeal the ordinance. It was discussed that it may be difficult but nobody here knows how many people voluntarily want to connect. If a resident wants to connect at a later date and water lines are available the State will give them a permit to connect, so they are potentially new customers, at that point in time the connection fees are going to be higher. Payments are not required on the loan until the system is built, we are talking a few years down the road, as the system is built the customer's that choose will connect into the water system, as development is coming into the Pinehurst Area there will be additional connections into the water system. She is not trying to incur law suits on this Township but we have to be fair to the people we represent who elected us. We campaigned on this issue and we were elected on this issue. She does not believe she has a conflict on voting on this ordinance and she is voting yes to repeal this ordinance.

The minutes reflect a continuing public theme asserted by respondent. She was pursuing the elimination of the mandatory connection requirement in the interest of helping the impacted members of the community from the financial burdens imposed by the ordinance. The cost per household was \$4,750 according the estimated offered by Philip Comisky Vice chairman of the MUA. Respondent's actions in opposing the connection requirement are more akin to those ordinary duties of an elected official, than self-serving financial interest. To find otherwise would have a chilling impact upon legislative actions involving a variety of matters, including bonding, special tax assessments, development of parks, community centers and playgrounds. All of these projects or actions could impact a direct or indirect pecuniary interest of an elected official. The

distinction here is that a significant section of the township was impacted by the repeal of the ordinance to make it less personal to respondent. Generally, water is an essential municipal service just like sewer, trash, and police services. Here, the implication of the cost and fees to connect to this service raised considerable concerns to all sections of the community. It was not unique to respondent or her business. The repeal ordinance had enough general public concern that it did not present a conflict for respondent, notwithstanding her interest in the impacted business. **I SO FIND.**

It is worth mentioning that respondent's interest was different that most of her constituents. The Municipal Utilities Authority proposed to waive the connection fee of \$2,000, if respondent granted it an easement. (Affidavit of Toussaint-Exhibit E). The connection fee represented the most significant cost to the impacted property owners. Respondent owned a business that would have benefited from water services. Arguably, respondent's property value and business services would be enhanced if connected to the water system. A private well is expensive to install, replace and maintain. If it fails, the business could suffer consequences. City water has related costs and fees as well. The economic advantages or disadvantages of city water can be debated. But, it could be asserted that respondent voted against her pecuniary interest by repealing the ordinance. She would lose the increased property value associated with city water. Again, these arguments place petitioner in a different light than someone who was acting for their own self-interest. The connection fees could have been waived and her business property value enhanced. These facts, if true, do not remove the conflict but, they distinguish respondent's interest as less significant than the remaining members of the community.

CONCLUSION AND ORDER

Based upon the foregoing, I **CONCLUDE** that the LFB has not established that respondent violated *N.J.S.A. 40A:9-22.5(d)*. I therefore **ORDER** that Notice of Violation finding that respondent violated *N.J.S.A. 40A:9-22.5(d)* and the suspended \$100 fine to be **DISMISSED**.

I hereby **FILE** my initial decision with the **LOCAL FINANCE BOARD, DIVISION OF LOCAL GOVERNMENT SERVICES**, for consideration.

This recommended decision may be adopted, modified or rejected by the **LOCAL FINANCE BOARD, DIVISION OF LOCAL GOVERNMENT SERVICES**, which by law is authorized to make a final decision in this matter. If the Local Finance Board, Division of Local Government Services, does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with *N.J.S.A. 52:14B-10*.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **LOCAL FINANCE BOARD, DIVISION OF LOCAL GOVERNMENT SERVICES, 101 South Broad Street, PO Box 803, Trenton, New Jersey 08625-0803**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

1/14/05
DATE

W. TODD MILLER, ALJ

E-mail Receipt of Initial Decision Confirmed by the Local Finance Board on:

1/14/05
DATE

Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

/sd

APPENDIX

DOCUMENTS RELIED UPON

For Petitioner:

Brief and Certification of Ursula D. Baker in Support of Motion for Summary Decision,
with Exhibits

Supplemental Letter dated January 4, 2005

For Respondent:

Respondent's Brief in Support of Cross-Motion for Summary Decision

Affidavit of Dolores Toussaint in Support of Cross-Motion for Summary Decision, with
Exhibits

Letter of John Morelli, Esquire dated December 14, 2004, with attached Affidavit of
Dolores Toussaint