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SC/7

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RECEIVED  
MAR 6 - 1996  
OFFICE OF REPRESENTATIVE  
OF STAMFORD

March 5, 1996

Carmen Domonkos, President  
Board of Representatives

Re: Granting of Bonus Points on Civil Service Exams to  
Stamford Residents

Dear Carmen:

You have requested an opinion regarding the legality of granting five points on Civil Service exams to residents of Stamford. Enclosed is a copy of an opinion dated January 5, 1993, by Assistant Corporation Counsel Richard A. Robinson, on the same issue, with which I concur.

If you have any further questions on this matter, please do not hesitate to call me.

Very truly yours,

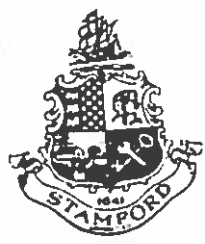
Thomas M. Cassone  
Director of Legal Affairs

TMC:cg  
Enc.

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3/7/96

MAYOR  
ANLEY J. ESPOSITO

JAN 5 1 11 PM '93



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RECEIVED

MAR 6 - 1996

OFFICE OF REPRESENTATIVE  
OF STAMFORD

January 5, 1993

Mr. Sim Bernstein  
Personnel Department  
City of Stamford

RE: Residency Requirements

Dear Sim:

This letter is in response to your request for information concerning what the state law is pertaining to residency requirements. Please be advised that Section 7-460b of the Connecticut General Statutes provides as follows:

Notwithstanding any provision of the general statutes or special act or local law, ordinance or charter, no municipality may require as a condition of employment with such municipality that an employee whose position is subject to the terms of a collective bargaining agreement reached pursuant to 7-467 to 7-477, inclusive, reside in such municipality.

As you can see, this section does not affect employees who would not be covered by a collective bargaining agreement.

You raised the question as to whether the city could give an employment candidate bonus points if they were residents of the City of Stamford at the time that they applied for employment. There are at least two legal reasons and several practical reasons why this would not be feasible.

The first legal reason against bonus points for residency is that an unsuccessful non-resident candidate for a position will probably argue that the sole reason that he/she did not get a job is because of the City took his/her resident status into consideration. The fact that the City used a "screening in" process instead of a "screening out" process will probably make little difference to a judge or jury.

The second legal reason is that the bonus point idea violates the spirit of 7-460b. This statute clearly provides

that no municipality may require residency as a condition of employment, the granting of bonus point appears to be a rather thinly veiled way of attempting to get around the provisions of the state statute. I don't think that we need a crystal ball to see what the results of a 42 U.S.C. 1983 action with accompanying attorney's fees pursuant to 42 U.S.C. 1988 would be against us in the event that such a program is implemented and we were sued.

A core practical reason against the bonus point idea is that the second that an individual is employed by the City, he/she could move to a non-Stamford residence without affecting his/her employment status, therefore why give have the points in the first place?

I trust that this letter adequately addresses all of your concerns. If you should have any questions regarding this matter, please feel free to contact me at the Law Department.

Very truly yours,



Richard A. Robinson  
Assistant Corporation Counsel

enc.

RAR

<sup>1</sup> 26 U.S.C.A. § 1400 et seq.

<sup>2</sup> 26 U.S.C.A. § 3101 et seq.

**Historical and Statutory Notes**

**Amendments**

1989 Amendment. 1989, P.A. 89-211, § 12, in subd. (7), substituted reference to the Internal

Revenue Code of 1986, or any subsequent corresponding Internal Revenue Code, as from time to time amended, for reference to the Internal Revenue Code of 1954, as amended.

**PART III. GENERAL PROVISIONS**

**§ 7-460b. Residency requirements**

Notwithstanding any provision of the general statutes or special act or local law, ordinance or charter, no municipality may require as a condition of employment with such municipality that an employee whose position is subject to the terms of a collective bargaining agreement reached pursuant to sections 7-467 to 7-477, inclusive, reside in such municipality.

(1989, P.A. 89-263.)

**§ 7-461a. Leave of absence for specialized disaster relief services**

Any municipal employee, with the approval of the legislative body of the municipality employing such employee, who is a certified disaster service volunteer of the American Red Cross, may be granted a leave not to exceed fourteen days in each year to participate in specialized disaster relief services for the American Red Cross, upon the request of the American Red Cross, without loss of pay, vacation time, sick leave or earned overtime accumulation.

(1989, P.A. 89-379, § 3.)

**§ 7-464. Group insurance benefits. Age discrimination**

Any town, city or borough may, through its authorized officials, provide such form or forms of group life, health and accident and hospital plan benefits for its employees as it deems advisable. If the town, city or borough has less than twenty employees, no health and accident and hospital plan for such employees may provide for reduced coverage for any employee who has reached the age of sixty-five and is eligible for medicare benefits or any employee's spouse who has reached age sixty-five and is eligible for medicare benefits except to the extent such coverage is provided by medicare. If the town, city or borough has twenty or more employees, the terms of any such plan shall entitle any employee who has attained the age of sixty-five and any employee's spouse who has attained the age of sixty-five to group hospital, surgical or medical insurance coverage under the same conditions as any covered employee or spouse who is under the age of sixty-five.

(1990, P.A. 90-88, § 1.)

**Historical and Statutory Notes**

**Codification**

Gen.St., Rev. to 1991, changed the section heading from "Group insurance benefits. Age discrimination prohibited" to "Group insurance benefits. Age discrimination".

**Amendments**

1990 Amendment. 1990, P.A. 90-88, § 1, added provisions relating to local jurisdictions with

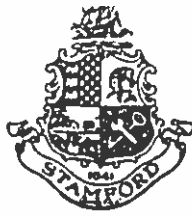
fewer than 20 employees, and then made prior text applicable to local governments having 20 or more employees.

**United States Supreme Court**

Age discrimination, bona fide employee benefit plan exception, subterfuge, see Public Employees Retirement System of Ohio v. Betts, 1989, 109 S.Ct. 2854.

**§ 7-464a. Deferred compensation plan for municipal employees. Administration**

(a) Any city, town or other political subdivision of the state may, by contract, agree with any employee to defer, in whole or in part, any portion of such employee's



CITY OF STAMFORD, CONNECTICUT  
INTER-OFFICE CORRESPONDENCE

January 12, 1993

TO: Mayor Stanley Esposito  
FROM: Sim Bernstein  
Personnel Director *Sim*  
RE: Residency Requirement

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At a recent meeting of the Labor and Personnel Committee of the Board of Finance, the question of residency requirement for police officers was raised. The question really was whether residency requirement could be enacted or whether we could give additional credit to local residents on police exams. I advised the group that the question had been asked and answered negatively by the Law Department, but I was asked to pursue it, which I did. I am enclosing a copy of an opinion written by Richard Robinson on the subject.

As an aside, as a matter of personnel policy, the issue of residency requirement for local jobs has been discussed and argued for many years. Most personnel people agree that residency requirements, in general, or bonus points for residents is not desirable. The major factor is that this severely limits your field of recruitment and may result in your getting the closest candidates rather than the best candidates to fill municipal positions.

If you have any further questions on the subject, please let me know.

SB/k

cc: Joseph Tarzia	Dannel Malloy
David Schropfer	John Mallozzi
Robert Harris	C. Raymond Grebey
Patrick O'Connor	Daniel McCabe
Richard Robinson	Personnel Commission

Enclosure

REQUEST OF LAW DEPARTMENT

DEPARTMENT, COMMISSION, COMMITTEE  
OR AGENCY MAKING REQUEST:

Board of Representatives

REQUEST FOR:

TELEPHONE NUMBER: X5032

OPINION x LITIGATION \_\_\_\_\_ LEGISLATION \_\_\_\_\_ TAX REFERRAL \_\_\_\_\_

CONTRACT/LEASE REVIEW \_\_\_\_\_ CONTRACT/LEASE PREPARATION \_\_\_\_\_

PROPERTY ACQUISITION \_\_\_\_\_ EASEMENT PREPARATION/REVIEW \_\_\_\_\_

OTHER: \_\_\_\_\_

SUBJECT: Granting five (5) additional points on civil service exams to Stamford residents

REASON FOR REQUEST: Item has been put on Agenda & whether it is legal to grant

these points.

STATUTORY/CHARTER REFERENCE (If applicable): \_\_\_\_\_

IF BOARD OF REPS ACTION IS REQUIRED,  
DATE OF APPROVAL OR AUTHORIZATION: \_\_\_\_\_

DATE NEEDED BY: 3/7/96

PLEASE SET A PRIORITY: \_\_\_\_\_

- Priority #1 - within five (5) working days of receipt
- Priority #2 - within two (2) weeks of receipt
- Priority #3 - within one (1) month of receipt
- Priority #4 - Other

PLEASE PROVIDE ANY ADDITIONAL INFORMATION, COMMENTS, TERMS, REFERENCE TO  
PRIOR OPINIONS, SPECIAL INSTRUCTIONS, ETC., WHICH WILL FACILITATE  
COMPLIANCE WITH THIS REQUEST, AND LIST ALL ATTACHMENTS SUBMITTED.

Attached is a copy of the request for opinion I received from

Randy Skigen, Chairman, Personnel Committee.

DATE OF  
REQUEST: 2/28/96

Randy Skigen  
Signature of Person Making Request  
Randall Skigen, Chair, Personnel Committee

Carmen Domonkos  
Signature of Department Head, or  
Commission/Committee/Agency Chairperson  
Carmen Domonkos, President

24th Board of Representatives

Please prepare in triplicate; send white and yellow to Law Department,  
retain pink copy for your files.

# MEMORANDUM

TO: Carmen Domonkos

FROM: Randy Skigen

DATE: 2/26/96

RE: Proposed Ordinance Granting Five (5) Additional Points on Civil Service Exams to Stamford Residents

I would like to receive a written opinion from the Office of Legal Affairs regarding the legality of granting five points on civil service exams to those who reside in the City of Stamford. If possible, I would like to have this opinion in time for our next Steering Meeting. If you have any questions, please contact me. Thank you for your help in this regard.