

Remand Case:
Charlene R. Antonelli, *et al.* v. CHRO : No. CV 00 0500563 5

Commission on Human Rights
and Opportunities *ex rel.*

Nancy Gyurko, : CHRO Case Nos. 9730281
Debra Remillard, : 9730280
Lisa Bambikidou, and : 9730279
Charlene R. Antonelli, Complainants : 9730278

v.

City of Torrington, Respondent : July 13, 2001

SUPPLEMENTAL FINAL DECISION

I. THE PARTIES:

COMPLAINANTS:

Nancy Gyurko of 950 Orchard Road, Torrington, CT 06790
Debra Remillard of 3569 Old Smithville Highway North, Sparta, TN 38583
Lisa Bambikidou of 307 Country Road, Torrington, CT 06790
Charlene R. Antonelli of 6 Hearthstone Terrace, New Milford, CT 06776

RESPONDENT:

The City of Torrington, c/o Victor M. Muschell, Esq., Muschell & Simoncelli, 104 Church Street, Torrington, CT 06790

COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES:

Philip A. Murphy, Jr., Esq., Commission Counsel, CHRO, 21 Grand Street - 4th Floor, Hartford, CT 06106

ITS ATTORNEY:

C. Joan Parker, Esq., Assistant Commission Counsel II, CHRO, 21 Grand Street - 4th Floor, Hartford, CT 06106

II. PROCEDURAL HISTORY:

The Public Hearing was held on May 17, 18, & 19, 1999. A final decision was issued on January 26, 2000, dismissing the Complaint. An appeal was taken to the Connecticut Superior Court entitled "*Connecticut Commission on Human Rights and Opportunities v. Connecticut Commission on Human Rights and Opportunities*," CV 00 0500563 5. On April 25, 2001, the Honorable Henry S. Cohn, Superior Court judge, Judicial District of New Britain, rendered the court's decision.

In its decision, the Court found substantial evidence to uphold the referee's dismissal of the alleged violations of the Equal Pay Act ("EPA") (MOD p.9). The Court remanded the decision to the referee for further analysis of the facts under 42 U.S.C. § 2000e 2(a) (Title VII) and General Statutes § 46a-60(a)(1) (the Connecticut Fair Employment Practices Act) ("CFEPA") Judge Cohn points out that the Court does not follow the dicta in *Tomka v. Seiler Corp.* 66F.2d 1295, 1312 (2d Cir.1995) that the prima facie standard is the same for the EPA and Title VII (MOD p.13 footnote 10).

The decision points out that the United States Supreme Court in *Gunther v. County of Washington* 452 U.S. 161, 178, 101 S.Ct. 2242, 68 L.Ed2d 751 (1981) made a distinction between the EPA and Title VII (MOD p.13, 14, 15). The Court remanded the decision to the referee for further analysis of the facts under the burden shifting analysis of Title VII and CFEPA . (MOD p.14-15).

No party took an appeal from Judge Cohn's decision. Thus, the appeal period ended on May 21, 2001.

III. ISSUES:

1. Whether the complainants proved by a preponderance of the evidence that the respondent violated Title VII.
2. Whether the Complainants proved by a preponderance of the evidence that the respondent violated CFEPA .

As the court notes, the nature of proof to establish that a job is similar is not the same standard under the EPA and Title VII. The coverage of Title VII is broader than that of the EPA with a more relaxed of similarity or comparability between male and female-occupied jobs (MOD p.13). Nevertheless, even applying this broader, more relaxed standard, for the reasons stated herein, the Complaints are DISMISSED.

IV. FINDING OF FACTS:

1. The Complainants, Nancy Gyurko, Debra Remillard, Charlene Antonelli, and Lisa Bambikidou, are or were, managerial employees of the City.
2. Local 818, Council 4, AFSCME, was formed in 1992 and is the collective bargaining agent of the complainants and other management-level employees.
3. Prior to being represented by Local 818, complainants, like other management employees who work for the City, were covered by a Management Resolution that set the terms of their salaries, benefits and other working conditions. Management Resolutions were voted on by the city council.
4. The first collective bargaining agreement between Local 818 and the City was effective July 1, 1993, through June 30, 1995. The complainants' salaries were incorporated into this collective bargaining agreement (except for Antonelli, who became a member of Local 818 subsequently).
5. Article XIV, Section 14.1 of the 1993-1995 collective bargaining agreement between Local 818 and the City required the City to "evaluate positions" and use the result of the evaluation for the basis of further negotiations.

6. The City hired a consultant to perform an evaluation of all union and non-union management positions. After gathering information, including the job descriptions, which were prepared by the complainants and other members of Local 818 and then reviewed by the consultant, he conducted interviews with the employees and published the City's position. The consultant presented the Job Study in November 1994.
7. The Job Study established points and position levels for each position evaluated.
8. The Job Study was the subject of negotiations between Local 818 and the City. These negotiations reached an impasse in March 1996, and the parties entered into mediation efforts.
9. When mediation efforts were unsuccessful, Local 818 and the City submitted the disputed issues from the 1995-1998 collective bargaining agreement to binding arbitration in July 1996.
10. The arbitration panel, in a decision dated December 5, 1997, awarded a 2.5% general wage increase to all members of Local 818 for each year of the 1995-1998 contract. The decision also awarded wage equity adjustments to fourteen people in Local 818, including complainants, each in different amounts, retroactive to July 1, 1996.
11. With the pending expiration of the 1995-1998 collective bargaining agreement, Local 818 and the City entered into negotiations for a successor contract.
12. Local 818 and the City reached an agreement in August 1999 awarding each member of Local 818, including complainants, a 3% per annum increase for each year of the three-year contract, July 1998 to June 2001.

13. There are currently twenty-eight management positions in the City. Nineteen positions are represented by Local 818. Seven positions are held by females, seventeen are held by males and four are vacant.
14. Specifically with respect to complainant Gyurko, it was found that she currently holds the title of Director of Elderly Services, with a current salary of \$47,209.
15. Gyurko went through the Job Study process and eventually received a point score of 53.
16. Gyurko compares herself to the Superintendent of Streets as a male employee because that position and her position both received 53 points in the Job Study. The current salary of the Superintendent of Streets is \$50,349.
17. In the December 7, 1997, arbitration award Gyurko received the standard 2.5% wage increase and two-equity adjustment points of \$1266 each.
18. At the time of the filing of the complaint, the Superintendent of Streets received \$49,879, while Gyurko received \$41,458.
19. With respect to complainant Remillard, it was found that she held the position of Nutrition Supervisor for the Elderly Nutrition Program and resigned in June 1999. Her salary at that time was \$37,785.
20. Remillard participated in the Job Study evaluation, ultimately receiving 43 points.
21. Remillard compares herself to the Assistant Superintendent of Streets, who received 40 points. Although currently vacant, the post of Assistant Superintendent of Streets is advertised as having an annual salary of \$40,000.
22. As a result of the December 5, 1997, arbitration award Remillard along with the other members of Local 818 received a 2.5% wage increase. Remillard also received two equity adjustments of \$5045 each.

23. When Remillard filed her complaint, her annual salary was \$25,600, and that of the Assistant Superintendent of Streets was \$39,981.
24. Remillard also compares herself to another vacant position, Environmental Planner. This position received 40 points in the Job Study. That position paid \$35,061 when Remillard filed her complaint.
25. With respect to complainant Antonelli, it was found that she held the position of Purchasing Agent with a current salary of \$37,352.
26. Antonelli participated in the Job Study and received 43 points.
27. Antonelli compares herself to the Assistant Superintendent of Streets, Environmental Planner, and Data Processing Manager.
28. The Data Processing Manager received 40 points in the Job Study and currently receives a salary of \$40,000.
29. As a result of the December 7, 1997, arbitration, Antonelli, as did the other members of Local 818, received a 2.5% wage increase. She also received two equity adjustments of \$1900 each.
30. At the time of the filing of the complaint, Antonelli's salary was \$31,894, and the Data Processing Manager's salary was \$39,923.
31. With respect to complainant Bambikidou, it was found that Bambikidou holds the position of Assistant Parks and Recreation Director at a salary of \$29,958.
32. Bambikidou participated in the Job Study and received 34 points.
33. Bambikidou compares herself to the position of Zoning Enforcement Officer.
34. The Zoning Enforcement Officer received 30 points in the Job Study.
35. As a result of the December 7, 1997, arbitration, Bambikidou was paid a salary of \$21,528 and the Zoning Enforcement Officer was paid \$33,753.

V. ANALYSIS:

Application of Title VII - CFEPA to the Facts of These Claims - Prima Facie

Case:

A. Applicable Statutes:

A.1. Title VII:

42 U.S.C. § 2000e-2(a)

"discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual's - sex."

A.2. CFEPA :

Sec. 46a-60.

"Discriminatory employment practices prohibited. (a) It shall be a discriminatory practice in violation of this section:

(1) For an employer, by himself or his agent, except in the case of a bona fide occupational qualification or need, to refuse to hire or employ or to bar or to discharge from employment any individual or to discriminate against him in compensation or in terms, conditions or privileges of employment because of the individual's race, color, religious creed, age, sex, marital status, national origin, ancestry, present or past history of mental disorder, mental retardation, learning disability or physical disability, including, but not limited to, blindness;"

B.

B.1. The complainants have alleged violations by the Respondent of both Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2a ("Title VII") and General Statutes 46a-60(a)(1), Connecticut Fair Employment Practices Act ("CFEPA").

"Connecticut courts have looked to federal precedent in the employment discrimination arena for guidance in enforcing the state antidiscrimination statutes. See *Levy v. Commission on Human Rights and Opportunities* 236 Conn. 96, 903, 671 A2d 349 (1996)"

Hill v. Pinkerton Security & Investigation Services, Inc., 977 F.Supp. 148, 153 (D.Conn. 1997)

Therefore, I will analyze both the Title VII and CFEPA claims in this case together.

B.2. Under Title VII an employer may not "discriminate against any individual with respect to [her] compensation, terms,

conditions or privileges of employment, because of such individual's - sex" 42 U.S.C. 2000e-2(a).

Under CFEPa an employer " - by himself or his agent, except in the case of a bona fide occupational qualification or need, to discriminate against him in compensation or in terms, conditions or privileges of employment because of the individual's - sex" General Statutes 46a-60(a)(1).

As with any Title VII or CFEPa case if the Complainants cannot directly prove the reasons that motivated an employment decision, they may opt to present their cases by using a disparate treatment theory of discrimination. *Hill v. Pinkerton Security & Investigation Services, Inc.*, 977 F. Supp. 148, 154 (D.Conn. 1997).

"*McDonnell Douglas* and subsequent decisions have `established an allocation of the burden of production and an order for the presentation of proof in - discriminatory-treatment cases.' *St. Mary's Honor Center v. Hicks*, 509 U.S. 502, 506, 113 S.Ct. 2742, 125 L.Ed.2d 407 (1993). First, the plaintiff must establish a prima facie case of discrimination. *Ibid.*; *Texas Dept. of Community Affairs v. Burdine*, 450 U.S. 248, 252-253, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981)."

Reeves v. Sanderson Plumbing Products, Inc. 120 S.Ct. 2097, 2105 (2000).

"As the Connecticut Supreme Court recognized in the *Levy* decision, often a plaintiff cannot prove directly the reasons that motivated an employment decision. (Emphasis supplied.) In that case, the plaintiff may meet the less onerous burden of establishing a prima facie case by showing that (1) he or she belongs to a protected class; (2) he or she applied for the position in question; (3) despite his or her qualifications, he or she was rejected; and (4) after being rejected, the position remained open. 236 Conn. at 107-108, 671 A.2d 349, (citing *Burdine*, 450 U.S. at 252-53, 101 S.Ct. at 1093-94, and *Miko v. Commission on Human Rights & Opportunities*, 220 Conn. 192, 203, 596 A.2d 396). In the context of wage discrimination claims under Title VII, a plaintiff must show that she performed work substantially equal to that of white or male employees who were compensated at a higher rate of pay than she was. *Aman v. Cort Furniture Rental Corp.*, 85 F.3d 1074, 1087 (3d Cir. 1996). Once a plaintiff establishes a prima facie case of discrimination, the burden of production shifts to the defendant to rebut the presumption of discrimination by articulating some legitimate, nondiscriminatory reason for the plaintiff's rejection, or in this case, the lower rate of pay. *Levy* 236 Conn. PG 108, 671 A.2d 349, (citing *Burdine*, 450 U.S.; at 254, 101 S.Ct. at 1094, and *Miko*, 220 Conn. at 204, 596 A.2d 396). Once the defendant offers a legitimate, nondiscriminatory reason for the pay differential, the plaintiff then has the opportunity to prove by a preponderance of the evidence that the

proffered reason is pretextual and that the real reason for differential was plaintiff's race or sex. *Id.* at 108, 671 A.2d 349, (citing *Burdine*, 450 U.S. at 255-56, 101 S.Ct. at 1094-95 and *Miko*, 220 Conn. at 204, 596 A.2d 396); see also *Holt v. KMI-Continental, Inc.*, 95 F.3d 123, 129 (2d Cir.1996), cert. denied, 520 U.S. 1228, 117 S.Ct. 1819, 137 L.Ed,2d 1027 (1997)."

Hill v. Pinkerton Security & Investigation Services, Inc., 977 F.Supp. 148, 154, 155 (D Conn. 1997).

See also, *Ann Howard's Apricot's Restaurant, Inc. v. Commission on Human Rights & Opportunities*, 237 Conn. 209, which states the equivalent Connecticut principle.

The application of the criteria in *Belfi v. Prendergast*, 191 F.3d 129, 138 (2 Cir. 1999) to the Complainants prima facie case follows:

"(1)" The Complainants are members of the protected class because they are all women.

"(2)" The Complainants presented five types of evidence to show that their jobs were similar or comparable to the jobs of the men to whom they compared themselves.

- The individual Complaints.
- The testimony of the Complainants.
- The testimony of other witnesses.

In their testimony, the Complainants went into great detail about the duties of their own positions.

As a matter of fact, the Complainants did not compare their jobs to the male management employees to whom they compared themselves or testify concerning the similarities and differences between the work the Complainants did and the work that the men did. This testimony would have been helpful to me in deciding whether the jobs were "similar or comparable" for the purposes of Title VII and CFEP A .

Similarly, it would have been very helpful to me to have heard the men testify concerning what kind of work they did and how that compared to the work the Complainants did, as described in their testimony.

- The Job Study point assessment

The Complainants and the Commission argued that they were qualified for the positions of the men because they received the same number, or higher, of points assessed to the various positions in the job study. A series of Job Descriptions were developed in October 1994, with input from the Complainants and the Respondent. (Joint Exhibits 6 through 14.)

This evidence which is extremely relevant to the question of whether the jobs are "similar or comparable". The job descriptions were prepared by the Complainants and other management employees of the City of Torrington as part of the job study, which Local 818 and the City negotiated as part of the collective bargaining agreement between the parties.

This evidence takes on more weight, in my view, because of the paucity of other evidence in this case. What follows is a comparison of the four Complaints to the male management employees of the City of Torrington to whom they compared themselves for purposes of this case, according to Position and a breakdown of the Job Study Point Assessment:

(* All salaries and positions are comparable to the time period of December 1996.)

**JOB STUDY
POINT
ASSESSMENT**

- i. **Director, Elderly Services** - (Ms. Nancy Gyurko) - ***\$41,458.00 Annual Salary ****
Reports to: Mayor ***(in December 1996)***
POSITION DESCRIPTION:- (Joint Exhibit 6) **53**

OBJECTIVES: Responsible administrative and professional work to direct, initiate and coordinate the recreational and social services programs for over 7,000 elderly residents of Torrington.

Serves as the Municipal Agent for the Elderly and carries out mandates set forth by the State Department on Aging, Director of the Senior Center and the regional (19 towns) Director of the Nutrition Program. On call 24-hours per day.

ESSENTIAL FUNCTIONS: Develops, coordinates and oversees the social service programs and recreational activities for senior citizens residing in the City of Torrington.

Directs the Edward E. Sullivan Senior Center where services are generated to address the needs of the elderly during their retirement years.

Plans, organizes and supervises various social programs for seniors including recreation, health services, transportation programs, Chore Program, Federal Commodities Program, special programs for the elderly such as excursions, monthly newsletter, special diet, M.O.W. program, dances, parties, crafts, etc.

Processes assistance applications including Energy Conservation Loan, Conn Pace Conn Map, Homeowners Tax Assistance, Emergency Home Repair, Rent rebates, medical insurance forms, Title XIX, etc.

Provides information and referrals for all services offered to residents age 60 and over.

Directs the Elderly Nutrition Project for nineteen (19) area municipalities with the City of Torrington acting as the Agent for the program; reviews and approves all policies and procedures, grant applications and revisions, purchases and bids for service, personnel matters and fundraising activities and accounts.

Supervises the Elderly Nutrition Project Supervisor, program coordinators, Nurse Practitioner, clerical staff, van drivers, maintainers and volunteers.

Administers department budget and supervises financial procedures; writes grant proposals and develops financial resources.

Oversees maintenance and operation schedules of the Senior Center, makes home visits and coordinates with the WCAA and the Services for the Elderly Commission.

Coordinates and networks with other City departments and agencies.

Serves on various advisory and transportation councils related to elderly services.

Keeps abreast of the latest developments and legislation affecting senior citizens, and recommends new programs to the Services for the Elderly Commission; attends meetings and conferences pertaining to elder affairs.

Performs other duties and assignments as directed.

NON-ESSENTIAL FUNCTIONS: Answering the telephone, performing clerical and maintenance duties, scheduling appointments, transporting people and carrying heavy objects without assistance.

REQUIRED KNOWLEDGE , SKILLS AND ABILITIES: Thorough knowledge of Federal, State, City and departmental policies and requirements for the elderly services provided.

Thorough knowledge of facilities, equipment and program planning techniques needed to meet needs of senior citizens.

Considerable knowledge of various social, recreational, health and cultural programs for seniors, and referral services.

Considerable knowledge of community organizations and resources for older persons, and the ability to work constructively with these agencies.

Knowledge of the motivation and capacities of older persons for participation in various elderly activities.

Skills needed to manage, plan and control large social/recreational programs and to lead and motivate employees and volunteers involved in the delivery of the programs.

Ability to work with older people and to encourage their individual and collective abilities.

Ability to communicate effectively with individuals, groups of seniors, the news media, and outside organizations.

Ability to organize and supervise social programs for seniors, oversees the transportation and nutrition -programs and prepare communications.

Ability to assist in preparing grants, oversees the nutrition activities and meals to homes.

Ability to deal tactfully, courteously and harmoniously with senior citizens, employees, volunteers and others.

REQUIRED EQUIPMENT OPERATION: Drive an automobile; operate a P.C. and standard office equipment.

REQUIRED PHYSICAL EFFORT: Climbing stairs, moving elderly people; sitting at a desk and working continuously for extended period of time; getting in and out of an automobile; lifting and carrying supplies and materials.

REQUIRED QUALIFICATIONS (Minimum): Graduation from college with a B.S. degree in Human Services, Social Services, Gerontology or related field plus 3-4 years of related experience including at least 2 years of supervisory experience, or equivalent.

The Superintendent of Streets - (MALE) - \$49,879.00 Annual Salary *

Reports to: Public Works Director

POSITION DESCRIPTION - (Joint Exhibit 13) **53**

OBJECTIVES: Administers and directs the Streets division concerned with the construction, maintenance and repair of streets, drains and related public works facilities. Plans, organizes and supervises a comprehensive streets maintenance program. On-call 24-hours per day.

ESSENTIAL FUNCTIONS: Directs the street construction and maintenance program through an Assistant Superintendent and assigned personnel who exercise control over employees of various occupations and skills including maintainers and equipment operators.

Reviews and evaluates street maintenance programs and procedures; recommends and institutes revisions; shifts staffing and equipment assignments to achieve work goals and to obtain maximum utilization of division resources.

Supervises a program of street cleaning, maintenance, repair and construction; maintains roads, sanitary sewer and drainage systems; moves voting booths.

Plans and directs the maintenance, repair and construction of such public works as sidewalks, curbs, gutters and storm drains; directs leaf pick-up, sweeping, snow and ice removal, and sanding operations.

Computes estimates of time and material costs for construction and maintenance projects; prepares preliminary budget estimates for the street programs and discusses and explains estimates and program needs to appropriate City officials.

Receives and resolves complaints from officials and the general public, handles first step union grievances.

Performs other related work as assigned.

KNOWLEDGE, SKILLS AND ABILITIES: Considerable knowledge of the materials, methods and practices essential to the construction, maintenance and repair of streets, highways, bridges and drains.

Working knowledge of the principles and practices of civil engineering as applied to public works activities.

Working knowledge of public works cost accounting and of standard office procedures.

Ability to plan, direct and evaluate the work of a large street maintenance staff with economy and efficiency in the use of time, equipment and materials.

Ability to make investigations and to prepare comprehensive reports to analyze work procedures and develop new techniques.

Ability to establish and maintain cooperative relationship with employees, City officials and the general public.

REQUIRED EQUIPMENT OPERATION: Operates a motor vehicle, standard office equipment and street equipment when necessary.

REQUIRED PHYSICAL EFFORT: Lifting 25 lbs. and carry for a distance of 50 feet; sitting, conversing and taking notes for extended periods of time.

REQUIRED QUALIFICATIONS (Minimum): Graduation from high school supplemented by four years of trades training plus 7-8 years of related experience in street, sidewalk, and related maintenance and construction work, including 5 years of supervisory experience, or equivalent. Must possess a valid driver's license.

The Director of Elderly Services initiates, coordinates and directs recreational and social services for the City of Torrington which includes: excursions, newsletters, Meals-on-Wheels, dances, parties, and processes applications for financial assistance from the State of Connecticut and the Federal Government (Title XIX).

Required Knowledge includes: a “Thorough knowledge of Federal, State, City and Departmental policies and requirements for the elderly....”

Required Physical Effort includes: climbing stairs, moving elderly people, lifting and carrying supplies and materials.

Required Educational Qualifications are: a B.S. degree in Human Services, Social Services, Gerontology or related fields.

The Superintendent of Streets administers and directs the construction, maintenance and repair of streets, drains and related public works. Supervises street cleaning, moves voting booths. Develops estimates for the cost of construction.

Required Knowledge includes: the materials, methods and practices essential to the construction, maintenance and repair of streets, bridges, and storm drains.

Required Physical Effort includes: lifting 25 lbs. and carrying it for a distance of 50 feet.

The Required Educational Background includes: graduation from high school plus 7-8 years of related experience in street and sidewalk construction work.

Based on the testimony of the Complaint, Gyurko, and all of the evidence, including the job descriptions, it is clear to me that the two jobs in question are not “similar or comparable.”

Therefore, I find that the Complainants’ job and the job of Superintendent of Streets were not “similar or comparable,” for purposes of establishing a prima facie case under Title VII and CFEPA .

(* All salaries and positions are comparable to the time period of December 1996.)

**JOB STUDY
POINT
ASSESSMENT**

- ii. Supervisor of the Elderly Nutrition Program - (Ms. Debra Remillard) -
Reports to: Elderly Services Director **\$25,600.00 Annual Salary** *
POSITION DESCRIPTION - (Joint Exhibit 7) **43**
OBJECTIVES: Responsible for supervising and implementing the Litchfield Hills/Northwest Elderly Nutrition Program involving nineteen (19) municipalities in the northwest area of the State of Connecticut. The Nutrition Program includes congregate meal sites and the Meals-On-Wheels program.
ESSENTIAL FUNCTIONS: Plans, prepares and submits the annual Nutrition Program grant application for approval including the budget, nutrition application, needs analysis, alternative sites, negotiations with host agencies and providers of supportive services.
Supervises Site Managers, bookkeeper, Meals-On-Wheels Coordinator, M.O.W. Assessor, Nutrition Educator, drivers, maintainers, and kitchen aides.
Writes grant applications and submits budget revisions for approval.
Writes bid specifications as needed.
Prepares financial and M.I.S. reports including monthly and quarterly reports to the Area Agency and Services for the Elderly Commission; enters M.O.W. client and other data into computer; inputs computer program revisions.

Provides site and caterer monitoring, plans menus and writes newsletter articles relating to the Nutrition Program.

Oversees and provides for fundraising activities to assist in financing the Nutrition Program.

Supervises the maintenance of all M.O.W. trucks.

Participates in community planning of services for the elderly.

Performs other related duties as assigned.

NON-ESSENTIAL FUNCTIONS: Performing bookkeeping and clerical duties including payroll and CCI billing; carrying heavy objects without assistance.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Considerable knowledge of Federal, State, City and departmental policies and requirements relating to the Nutrition Program.

Considerable knowledge of facilities, equipment, program planning and fundraising techniques to meet the needs of the Nutrition Program.

Knowledge of Federal, State and local funding policies and how to obtain funding for program.

Ability to cooperate with and to get the cooperation of others.

Skill and ability in team leadership and consensus development with department and agency heads.

Ability to plan, direct, review and assess programs.

Ability to communicate the project to the general public as well as to private and public agencies.

Ability to involve older persons in local planning and advocacy.

Considerable skill in group process, community organization and leadership development.

Ability in oral and written communications.

Ability to assist in preparing grants, oversee the nutrition activities and meals to homes.

Ability to deal tactfully, courteously and harmoniously with senior citizens, employees, volunteers and others.

REQUIRED EQUIPMENT OPERATION: Drive a motor vehicle, operate a P.C. and standard office equipment.

REQUIRED PHYSICAL EFFORT: Sitting at a desk for extended period of time; walking or driving to and from meetings both local and out of town; attending and participating in large and small meetings including speaking, listening, writing minutes and notes.

REQUIRED QUALIFICATIONS (Minimum): Graduation from college with a B.S. degree in Human or Social Services, Gerontology Nutrition or related field plus 2-3 years of experience or an A.S. degree plus 5-years of related experience, including 2-years of supervisory experience.

Assistant Superintendent of Streets - (MALE) \$49,879.00 Annual Salary *

Reports to: Superintendent of Streets

POSITION DESCRIPTION - (Joint Exhibit 11) **40**

OBJECTIVES: Administers and directs assigned personnel in the use of equipment and materials on various street maintenance and construction work assignments. On-call 24-hours per day.

ESSENTIAL FUNCTIONS: Prepares work schedules, time and cost estimates, and completion schedules for performance of assigned functions.

Reviews engineering prints and orders required supplies.

Inspects jobs in progress and estimates materials required for completion; has purchase orders prepared for such materials and inspects materials received for quality.

Maintains Street Department building including repairing and painting and ensures adequate supplies and accountability of City owned equipment; maintains current records.

Oversees the required maintenance work relating to sanitary sewer lines and catch basins.

Monitors employees for compliance with safety policies and O.S.H.A. regulations.

Coordinates snow storm plowing and sanding operations; performs dispatching duties during snow storms and other emergency conditions.

Substitutes in the absence of the Superintendent of Streets.

Performs other related duties as required.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Considerable knowledge of the materials, methods and practices used in the construction, maintenance and repair of streets and related work.

Working knowledge of administrative procedures and office management methods.

Working knowledge of the geographic layout of the City and of various types of streets, roads and bridges within the City.

Working knowledge of costs and road materials and operations.

Ability to quickly analyze street projects and to comprehend personnel and materials requirements.

Ability to supervise street maintenance employees.

Ability to establish and maintain cooperative relationships with other employees and the general public.

REQUIRED EQUIPMENT OPERATION: Operates a motor vehicle; operates office equipment including personal computers.

REQUIRED PHYSICAL EFFORT: Lifting and carrying 25 lbs. for a distance of 50 feet, sitting, conversing and taking notes for extended period of time.

REQUIRED QUALIFICATIONS (Minimum): Graduation from high school supplemented by 3-years of trades training plus 5-6 years of related experience in street maintenance and construction work including 3-years of supervisory experience, or equivalent.

Must possess a valid motor vehicle driver's license.

Environmental Planner - (MALE)

\$35,061.00 Annual Salary *

Reports to: Chairman, IWC and City Planner

POSITION DESCRIPTION - (Joint Exhibit 12)

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OBJECTIVES: Responsible professional and technical assignments in the administration of the Inland Wetlands Commission involving the daily regulatory operation of IWC, in order to meet its goals and objectives. Assists the Zoning Enforcement Officer as necessary.

ESSENTIAL FUNCTIONS: Reviews inland wetland applications, coordinates IWC activities to insure timely review and processing of applications.

Conducts and supervises on-site inspections of wetlands, watercourses and affected properties; enforces permit compliance.

Reviews and approves Zoning permit applications.

Prepares, reviews and approves staff recommendations to the IWC with regard to specific applications.

Develops recommendations for IWC short and long term goals and objectives.

Evaluates environmental impact statements and prepares or coordinates the preparation of environmental assessments statements for use by the IWC.

Conducts field surveys, wetland and watercourse inventories, research activities, and establishing specific wetland priority criteria.

Evaluates land suitability's and capabilities, drainage hydrology, construction and stabilization costs, sets erosion control bonds.

Recommends revisions to the IWC inventory map and regulations of the IWC.

Assumes regulatory authority and responsibility as delegated by IWC; reports related activity as required, to the State Department of Environmental Protection.

Plans for the most effective use and preservation of the City's water resources.

Conducts research, prepares studies and implements plans, as required; performs title searches.

Reviews recommended budgets.

Attends all special and regular meetings of the IWC as required.

Testifies at the IWC public hearings and court proceedings in conjunction with the Corporation Counsel.

Meets with property owners, developers, municipal, state and federal officials to discuss and resolve wetland and zoning problems ion relation to the development of properties and wetlands and zoning regulatory and scientific issues.

Supervises a secretary.

Performs other related assignments as required.

NON-ESSENTIAL FUNCTIONS: General office activities.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Thorough knowledge of Connecticut's Inland Wetlands and Watercourses Statute and regulations and a general knowledge of the Tidal Wetland Statute and regulations.

Considerable knowledge in environmental sciences and natu5ral resources, including working knowledge of wildlife management, ecology, biology, botany, soil science, geology, hydrology, cartography and civil engineering.

Good working knowledge and understanding of municipal, state and federal environmental statutes, municipal governments and operations.

Ability and willingness to cooperate with City Planning and Zoning staff, Department of Public Works, other City departments and the general public.

Ability to analyze and compile technical reports, maps, aerial photographs, soils map and engineering/construction drawings.

Ability to appear before public meetings and make effective presentations.

Ability to supervise a secretary.

Ability to obtain ZEO certification.

REQUIRED EQUIPMENT OPERATION: Operates standard office equipment including a P.C., telephone, copy machine, etc.; operates typical field equipment, i.e., shovel, soil auger and camera, etc.; drives a motor vehicle.

REQUIRED PHYSICAL EFFORT: Sitting at a desk or standing at an assigned location and working continuously for extended periods of time utilizing various office equipment; traversing difficult, rocky, steep and swampy terrain in various weather conditions.

REQUIRED QUALIFICATIONS (Minimum): Graduation from a recognized college or university with a B.S. degree in Environmental Science or related field plus 3-4 years of experience in the field of environmental management and two years of zoning enforcement experience, or equivalent. Must possess a valid driver's license and be certified by the Connecticut Association of Zoning Enforcement Officials or obtain such certification within two years of the assignment date.

The Supervisor of the Elderly Nutrition Program: supervises and implements the nutrition program for the elderly for 19 municipalities in Litchfield County.

The duties include: writing grant applications and carrying heavy objects without assistance.

Required Knowledge includes: “Considerable knowledge of Federal, State, City and Departmental policies and requirements relating to the Nutrition Program.”

The Required Educational Qualifications include: “a B.S. degree in Human or Social Services, Gerontology Nutrition or related field...”

The Assistant Superintendent of Streets: administers and directs departmental personnel in the use of equipment and materials for various street maintenance and construction projects, on-call 24-hours a day, and monitors employees compliance with safety policies and O.S.H.A. regulations.

Job Knowledge includes: materials, methods and practices of the construction, maintenance, and repair of the streets and other construction work.

Physical Requirement is to: lift and carry 25-lbs. for 50-feet.

The Educational Requirements include: graduation from high school supplemented by 3-years of training in trades, plus 5-6 years of related experience in street maintenance and construction work.

The Environmental Planner is responsible for the administration of the Inland Wetlands Act within Torrington; reviews Inland Wetlands applications; conducts the

on-site inspection of wetlands, watercourses, and affected properties; and reviews and approves zoning permit applications.

Required Knowledge includes: a thorough knowledge of Connecticut's Inland Wetlands and Watercourses statute and regulations; the Tidal Wetland Statutes and appurtenant regulations. Also, knowledge in the environmental sciences, wildlife management, ecology, biology and civil engineering.

The Required Physical Efforts includes: traversing difficult, rocky, steep or swampy terrain in all weather conditions.

The Educational Requirements includes a B.S. degree in Environmental Science and 3-4 years of experience in the field of environmental management and 2-years of zoning enforcement experience.

Based on the job descriptions and all of the evidence, I find the Complainant's, Remillard's, job was not "similar or comparable" to the jobs of the Assistant Superintendent of Streets and the Environmental Planner, for purposes of Title VII or CFEP A .

(* All salaries and positions are comparable to the time period of December 1996.)

**JOB STUDY
POINT
ASSESSMENT**

- iii. **The Purchasing Agent** - (Ms. Charlene Antonelli) **\$31,894.00 Annual Salary** *
Reports to: Mayor
POSITION DESCRIPTION - (Joint Exhibit 9) **43**
OBJECTIVES: Provides responsible administrative and management services in planning and directing the purchasing program for City Departments excluding the Board of Education. Controls and manages the purchasing of supplies, materials, equipment and services for the City departments; involves performance and administration of activities connected with the review of requisitions, specifications writing, soliciting bids, and the processing of purchases.
ESSENTIAL FUNCTIONS: Supervises and maintains a comprehensive municipal purchasing program involving the complete purchasing cycle.

Establishes standard specifications, quality and delivery requirements for the purchase of supplies, materials equipment and services; supervises the preparation and final editing of specifications in order to obtain maximum purchasing effectiveness while meeting departmental needs, and ensuring fair and competitive bidding; oversees contracting for all supplies, materials, equipment and required services.

Negotiates fair and equitable price, quality and delivery with suppliers prior to placing orders.

Updates and promotes adherence to annual purchasing calendars; supervises continuous expediting of open orders; assists departments with materials problems; negotiates vendor adjustments for unsatisfactory goods and services.

Reviews requisitions, prepares specifications, solicit bids over \$3000, analyzes and recommends acceptance of bids, and makes awards; implements and reviews procurement procedures, methods and records, and updates as necessary; remains informed on new products, and their possible applications to City needs.

Maintains current vendor evaluations relating to performance records and capability analysis.

Promotes consolidation of purchases and initiates bulk purchases for City departments, where appropriate; promotes standardization of items to permit bulk purchases.

Supervises the disposition of surplus property in the most cost beneficial manner.

Prepares, recommends and presents division budgets to the Mayor.

Supervises a Purchasing Clerk.

Performs other related work as required.

NON-ESSENTIAL FUNCTIONS: Reviews invoices and approves discrepancies, and maintains library of catalog and publications; filing.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Considerable knowledge and understanding of data processing and of modern purchasing methods and practices and budgeting procedures.

Ability to understand pricing, business practices and market conditions and information processes and technology.

Knowledge of statutes and ordinances related to public procurement practices and legal contracts.

Ability to establish and maintain effective relationships with department heads, vendors, and others and to schedule and set priorities for purchasing functions and activities.

Ability to develop and implement long-range plans for municipal purchasing programs and to write competitive specifications, perform the analysis of bids, and other purchasing functions.

REQUIRED EQUIPMENT OPERATION: Standard office equipment including a personal computer and calculator; drives a motor vehicle.

REQUIRED PHYSICAL EFFORT: Carrying packages and supplies, access various City buildings and work sites, attend night meetings; public speaking as required.

REQUIRED QUALIFICATIONS (Minimum): Graduation from an accredited college or university with a B.S. degree in business or public administration plus a minimum of 5 years of public or private procurement, or equivalent.

Assistant Superintendent of Streets - (MALE) \$49,879.00 Annual Salary *

Reports to: Superintendent of Streets
POSITION DESCRIPTION - (Joint Exhibit 11) (SEE: ii, pg. #17) 40

Environmental Planner - (MALE) \$35,061.00 Annual Salary *
Reports to: Chairman, IWC and City Planner
POSITION DESCRIPTION - (Joint Exhibit 12) (SEE: ii, pg. #18) 40

Data Processing Manager - (MALE) \$39,923.00 Annual Salary *
Reports to: Computer Committee and Comptroller
POSITION DESCRIPTION -(Joint Exhibit 14) 40

OBJECTIVES: Responsible for the computerized systems of all City departments.

Analyzes requirements for and plans, develops and implement new, complex information systems affecting all City Departments and aspects of their operations.

Gathers and analyzes information for the acquisition of new information systems or major modifications to existing systems; prepares flow charts and related documentation, develops, prepares and designs programs, recommends the selection of equipment to process data and tests operation of completed programs.

ESSENTIAL FUNCTIONS: Provides operational support, training and systems maintenance for all PC hardware and software, including local area networks and the IBM AS/400 midrange computer.

Prepares bid specifications, related specifications for documentation and program analysis.

Analyzes existing municipal operations to computerize office functions, excluding Schools and the Police Department; submits recommendations for system requirements.

Provides technical support to City employees including the Mayor's Computer Committee; coordination with other employees and vendors to assure efficient use of software and hardware.

Trains City employees in the proper use of software; provides system management including back-up safety of computerized programs, and vendor management for software maintenance.

Negotiates purchasing or leasing contract for personal computers with vendors.

NON-ESSENTIAL FUNCTIONS: Operates PC equipment for purposes other than training and testing; lifting heavy stock or equipment.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Thorough knowledge of the principles, practices and techniques of modern data processing.

Considerable knowledge of the operating characteristics, capabilities, limitations and service requirements of personal computers and related equipment.

Considerable knowledge of current practices and developments in information systems, especially in the area of municipal government.

Working knowledge of the principles of supervision, organization and administration.;

Ability to relate the service requirements of using agencies to the capabilities of modern technology and to judge the practicality of potential applications.

Ability to establish and maintain effective working relationships with officials, employees, user agencies and vendors.

REQUIRED EQUIPMENT OPERATION: Operates a PC and other standard office equipment.

REQUIRED PHYSICAL EFFORT: Sitting at a desk for extended periods of time, walking and moving through the City Hall and to other locations where computer equipment is installed.

REQUIRED QUALIFICATIONS (Minimum): Graduation from college with a B.S. degree in MIS, Business or Public Administration plus 3-4 years of experience in managing a management information systems group or equivalent.

The Purchasing Agent controls and manages the purchasing of supplies, materials, equipment and services for the City of Torrington; establishes standards for purchases and negotiates with suppliers; reviews requisitions; solicits bids for the purchase of materials or services over \$3,000.00; also supervises the disposition of surplus property.

Required Knowledge for this position includes: considerable knowledge of modern purchasing methods and the ability to understand pricing, business practices, market conditions, and information processing and technology.

The Required Physical Effort includes carrying packages and supplies.

The Required Educational background includes: a B.S. degree in business or public administration, plus 5-years experience in the field of public or private procurement.

The Assistant Superintendent of Streets: administers and directs departmental personnel in the use of equipment and materials for various street maintenance and construction projects, on-call 24-hours a day, and monitors employees compliance with safety policies and O.S.H.A. regulations.

Job Knowledge includes: materials, methods and practices of the construction, maintenance, and repair of the streets and other construction work.

Physical Requirement is to lift and carry 25-lbs. for 50-feet.

The Educational Requirements include: graduation from high school supplemented by 3-years of training in trades, plus 5-6 years of related experience in street maintenance and construction work.

The Environmental Planner is responsible for the administration of the Inland Wetlands Act within Torrington; reviews Inland Wetlands applications; conducts the on-site inspection of wetlands, watercourses, and affected properties; and reviews and approves zoning permit applications.

Required Knowledge includes: a thorough knowledge of Connecticut's Inland Wetlands and Watercourses statute and regulations; the Tidal Wetland Statutes and appurtenant regulations. Also, knowledge in the environmental sciences, wildlife management, ecology, biology and civil engineering.

The Required Physical Efforts includes: traversing difficult, rocky, steep or swampy terrain in all weather conditions.

The Educational Requirements includes a B.S. degree in Environmental Science and 3-4 years of experience in the field of environmental management and 2-years of zoning enforcement experience.

The Data Processing Manager is responsible for the computerized systems of the City government; develops and implements recommendations for the new information processing systems for the City departments; and for upgrading such systems as necessary; provides operational support, training and systems maintenance for all PC-related hardware and software; develops bid specifications for data processing systems; provides support to City departments and trains City employees in the proper use of software.

Required Knowledge for this job includes: thorough knowledge of the principals, practices and techniques of modern data processing; knowledge about current practices and developments in information systems, as well as personal computers.

The Required Physical Efforts includes: the ability to lift heavy stock or equipment.

Required Educational Experience for this position includes: B.S. degree in MIS, Business or Public Administration; plus 3-4 years experience in managing an information systems group.

Based on all of the evidence, including the job descriptions, I hereby find that the Complainant's, Charlene Antonelli's, job was not "similar or comparable" to the jobs of the Assistant Superintendent of Streets, the Environmental Planner, or the Data Processing Manager for purposes of Title VII and CFEPA.

(* All salaries and positions are comparable to the time period of December 1996.)

**JOB STUDY
POINT
ASSESSMENT**

- iv. The Assistant Director, Parks and Recreation - (Ms. Lisa Bambikidou)
Reports to: Parks and Recreation Director **\$21,528.72 Annual Salary** *
POSITION DESCRIPTION - (Joint Exhibit 8) **32**
OBJECTIVES: Plans, administers and directs a comprehensive City recreation program which will meet the needs of various interests and physical facilities.
ESSENTIAL FUNCTIONS: Plans, schedules and directs a diversified recreation program in the City parks, playgrounds, community centers, pool and other recreation areas, including Coe Park Center and Recreation Hall.
Directs and participates in the assignment, training, supervision, and review of the work of employees engaged in a variety of recreation instructional and leadership tasks, including lifeguards and playground supervisors.
Assists public groups interested in sports, arts, and other recreational activities; establishes public information program; maintains program registrations; assembles brochures; orders supplies.
Studies and reviews area recreation problems in terms of use and usefulness in meeting community needs including the development of new recreation facilities; evaluates community recreation programs and priorities; submits

recommendations on major program modifications; supervises implementation of new programs and policies; handles complaints.

Assists in preparing annual budgets; maintains records and preparation of reports; plans and executes seasonal programs and special events, including softball, basketball, volleyball and aerobics.

Prepares memoranda and correspondence.

Performs other related assignments as required.

NON-ESSENTIAL FUNCTIONS: Answering phones, office duties, filing bookkeeping, typing and operation of computer.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Considerable knowledge of the principles, administrative practices and objectives of organized recreation.

Good knowledge of a wide variety of physical and social activities.

Working knowledge of the facilities and equipment needed in a recreational program and of the proper physical planning and arrangement of recreation areas.

Working knowledge of sociological and community needs.

Ability to develop, organize and direct varied activities involved in a community-wide recreation program.

Ability to communicate orally, one-on-one and gatherings, and in writing.

Ability to hire, train, instruct, assign, supervise, and review the work of a variety of employees engaged in a recreation program.

Ability to plan, establish, and maintain, according to necessary seasonal adjustments, a balanced program of recreation designed to meet the needs of interest groups, of various age levels, and other community-factor requirements.

Ability to meet and deal tactfully with the public and with other department and City officials and to solve problems of discipline.

REQUIRED EQUIPMENT OPERATIONS: Operates assigned recreation vehicles.

REQUIRED PHYSICAL EFFORT: Sitting at a desk, walking or standing at a specified work station/area and performs required work tasks continuously for extended periods of time; travelling continuously, and at frequent intervals, to leisure service program sites, meetings, seminars, etc.; moving boxes and equipment up to 20 pounds.

REQUIRED QUALIFICATIONS (Minimum): Graduation from college with a B.S. degree in Recreation or Leisure Services or related field plus one year of related experience or an A.S. degree in Recreation plus 2-3 years of experience in recreational activities including one year of supervisory experience, or equivalent.

Zoning Enforcement Officer - (MALE) \$33,753.00 Annual Salary *

Reports to: City Planner

POSITION DESCRIPTION - (Joint Exhibit 10) **30**

OBJECTIVES: Responsible professional work involving the enforcement and administration of the City zoning regulations.

Reviews all zoning permit applications for zoning approval, organizes a comprehensive program for plan review, field inspections, and consultations, and for issuing written opinions and decisions.

ESSENTIAL FUNCTIONS: Reviews and approves zoning permit applications, processing zoning violations and dealing with the public; testifies in court as requested.

Examines all zoning permit applications, site plans, subdivision plans, and surveys of new buildings, additions and alterations to insure compliance with City zoning regulations, and Planning and Zoning conditions; submits comments to Planning and Zoning as part of interdepartmental review process for applications requiring P and Z review and approval.

Inspects sites of new construction to insure compliance with approved plans, City zoning Regulations and Planning and Zoning conditions.

Consults with members of the general public, architects, planners and engineers concerning specific application of the City zoning regulations.

Responds to and investigates alleged zoning violations; issues zoning violations and maintains record files.

Handles all referrals of violations through the City Attorney or other agency involved to eliminate zoning violations.

Recommends changes in the regulations to the Planning Commission where problems have developed.

Attends Planning and Zoning Commission meetings when matters of interest are on the agenda and/or as requested by the Commission.

Performs title searches and interprets deeds.

Reviews and accepts all applications to the Zoning Board of Appeals, maintains record files, acts as staff representative to the ZBA and attends all meetings.

Organizes and/or performs field inspections on all phases of the construction process including on-going construction, before issuance of Certificate of Occupancy, and after occupancy to assure compliance with site plans and subdivision plans approved by the Planning and Zoning Commission; reviews site work, required screening and planting, adequacy of parking facilities, fences, signs, excavations and land fills, corner visibility, lighting, odors and noise, setbacks, architectural details, building height, foundation location, to assure compliance with approved plans and regulations.

Inspects at site for compliance with Planning and Zoning Board of Appeals and Planning and Zoning Commission conditions as to hours of operation, odors, noise, scope of use, screening, lighting location and intensity, number of employees adequacy of parking and egress, following construction, as required.

Conducts field inspections throughout the City.

Supervises a secretary and Assistant ZEO.

Performs other related work as required.

NON-ESSENTIAL FUNCTIONS: Assists Environmental Planner with Wetland complaints and inspections.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Knowledge of planning and design of all types of buildings.

Knowledge of landscape and site planning.

Knowledge of soil types, erosion control, techniques, drainage and roadway design and wetlands regulations.

Knowledge of the streets and build-up areas in Torrington,.

Working knowledge of City building codes and proper inspection techniques.

Ability to communicate well with persons individually or in groups.

Ability to understand and apply the Zone Regulations in consultation with affected parties.

Ability to sketch and prepare simple drawings and to prepare concise and accurate reports.

Ability to work harmoniously with other City agencies, construction personnel, and to maintain effective public relations.

Ability to read, understand and interpret all types of building plans, maps, site plans and subdivision plans including topographical maps and building elevations. Experience in architectural or construction drafting, land surveying.

Ability to conduct investigations.

Ability to exercise a high degree of persuasion, tact and diplomacy in carrying out the duties of the position.

Ability to prepare complex written and oral material explaining decisions and opinions.

REQUIRED EQUIPMENT OPERATION: Drive an automobile and operate office equipment, including a personal computer for data entry and retrieval of information, operate a telephone and an electronic calculator.

REQUIRED PHYSICAL EFFORT: Ability to walk, climb a ladder, crawl in an attic or craw space or other similar spaces and possess enough agility to negotiate a construction site to make proper inspections.

REQUIRED QUALIFICATIONS (Minimum): Graduation from college or university with a B.S. degree in City Planning or Environmental Studies plus 2-3 years of related experience or equivalent. Must possess a valid driver's license and be certified by the Connecticut Association of Zoning Enforcement Officials or obtain such certification within two years of the assignment date.

The Assistant Director of Parks and Recreation plans, schedules and directs a diversified recreation program in the City parks, playgrounds, community centers and the pool. She also assists public groups interested in sports, arts, and other recreational activities.

Required Knowledge includes: assisting in preparing the annual budget; maintaining records, and preparing reports. Also includes principles and objectives of organized recreation; knowledge of the facilities and equipment necessary for recreational programs and the needs of the community.

Required Physical Effort includes: travelling and walking continuously and moving boxes and equipment up to 20-lbs.

Minimum Educational Qualifications includes: a B.S. degree in Recreation or Leisure Services; plus one year of job experience in this field; or an A.S. degree in Recreation; plus 2-3 years of on the job recreational experience.

The Zoning Enforcement Officer is responsible for the administration and enforcement of the City Zoning Regulations; reviews and approves zoning permit applications, this involved review of the application paperwork and field inspections; also issues written opinions and decisions; attends Planning and Zoning Commission meetings as requested; performs title searches.

Required Knowledge includes: performance of field inspections on all phases of the construction process before issuing a "Certificate of Occupancy"; reviews site work requiring screening, planting, adequacy of parking facilities, fences, signs, excavations and landfills, corner visibility, lighting, odors and noise, setbacks, architectural details, building height and the location of the foundation to insure compliance with City regulations and approved plans.

Required Physical Effort includes the ability to negotiate a construction site, an attic crawlspace, or climb a ladder.

Minimum Educational Qualifications includes: a B.S. degree in City Planning or Environmental Studies; plus 2-3 years of similar on the job experience.

It is clear to me, based on all of the evidence including the job descriptions, that the job of the Complainant, Bambikidou, and the jobs of Assistant Parks and Recreation Director and the Zoning Enforcement Officer are not "similar or comparable" for the purposes of Title VII and CFEPA.

Judge Cohn notes that in his remand decision:

"The nature of proof needed to establish that a job is similar is not the same under the Equal Pay Act and Title VII. MOD P13. He cites language from *Lenihan v. Boeing Co.*, supra, 994 F.Supp. 799 which he quotes as follows:"

"Title VII incorporates a more relaxed standard of similarity between male and female-occupied jobs.... Thus, under Title VII, the plaintiff is not required to meet the exacting standard of substantial equality of

positions set forth in the Equal Pay Act.... In *Gunther*, the Supreme Court specifically rejected the notion that only those sex-based wage discrimination claims that satisfy the equal work standard of the Equal Pay Act could be brought under Title VII.... To be actionable under Title VII, the work performed by the female employee need only be similar or comparable to that of a higher paid male employee.... (Emphasis added.) "See also *Thompson v. City of Albuquerque*, 950 F.Supp, 1098, 1104 (D.NM. 1996).

Therefore, the standard I have applied is that the jobs performed by the female employees need to be "similar or comparable" to the jobs of the higher paid male employees in order to establish their case.

After an analysis of the testimony of the Complainants and other testimony, as well as, an exhaustive analysis of the documentary evidence, especially the job descriptions; I come to the conclusion, in each of these cases, that the jobs of the complainants were not "similar or comparable" to the jobs held by the higher paid males.

Most of the federal cases, which have dealt with the issue of similar or comparable work (both under Title VII and CFEPA), have dealt with the same job classifications. For example:

- *Gunther v. County of Washington* 452 U.S. 161, 178, 101 S.Ct. 22442, 68 L.Ed2d 751 (1981)
----- prison guards
- *Hill v. Pinkerton Security and Investigation Services, Inc.*, 977 F. Supp. 148 (D.Conn. 1997)
----- security officers
- *Belfi v. Prendergast*, 191 F.3d 129 (2 Cir. 1999)
----- office engineers"

Some further assistance in interpretation is provided by the EEOC guidelines, which provide, in pertinent part, as follows:

“How do you determine whether employees are similarly situated?”

The jobs the employees hold should be similar enough that one would expect the jobs to pay the same. This need not be an overly rigid process. The key is what people actually do on the job, not job titles or departmental designations. Skill, effort, responsibility, and the general complexity of the work are guideposts in determining job similarity.”

www.eeoc.gov/docs/qanda-compensation.html

The guidelines stress

“what people actually do on the job”

and include

“skill, effort, responsibility and the general complexity of the work.”

- 1.) The job duties of the Complainants, as described in all of the evidence, were substantially different from the male employees to whom they compared themselves.
- 2.) The Educational requirements, as described in the testimony and the job descriptions, were significantly different for each of the positions in question - both for the men as well as for the women.
- 3.) Finally, the prior work experiences, as well as the supervisory work experience, of each position, were substantially different from job to job.

It is clear to me that the women could not immediately move into the positions of the males to whom they compared themselves without going back to school for some additional education, as well as, more on-the-job training in the other fields, as well as obtaining more additional supervisory experience in those other jobs occupied by the men.

"(3) She was paid less than men for the same work...":

All the Complainants were paid less than the male management employees to whom they compared themselves, therefore, they established this element of their prima facie case.

- i. **The Director of Elderly Services**, Ms. Nancy Gyurko, **earned an annual salary of \$41,458.00** in December of 1996 (all salaries and positions are comparable to the time period of December 1996).

The Superintendent of Streets, a man, earned \$49,879.00 per year.

- ii. **The Supervisor of the Elderly Nutrition Program**, Ms. Debra Remillard, **earned \$25,600.00 per annum**.

The Assistant Superintendent of Streets, a man, earned \$39,981.00 per year.

The Environmental Planner, also a man, earned \$35,061.00 for that same year.

- iii. **The Purchasing Agent** for the City of Torrington, Ms. Charlene Antonelli, **earned \$31,894.00 per annum**.

The Assistant Superintendent of Streets, a man, earned \$39,981.00 per year, during 1996.

The Environmental Planner, also a man, earned \$35,061.00 per year, during 1996.

The Data Processing Manager, also a man, earned \$39,923.00 per year, during 1996.

- iv. **The Assistant Park and Recreation Director**, Ms. Lisa Bambikidou, **earned \$21,528.00 per annum** during 1996.

The Zoning Enforcement Officer, a man, earned \$33,753.00 per year during the same year.

"(4) The employer's adverse employment decision occurred under circumstances that raise an inference of discrimination."

To establish the fourth element of their prima facie case, they must show that the employer's adverse employment decision occurred under circumstances that raise an inference of discrimination. *Belfi v. Prendergast*, 191 F.3d129, 138.

The Complainants rely on the fact that once the job study was completed and the points were assigned to each of the members of the union, and therefore, they should

have been paid the same as the men in the bargaining units who had equal or lesser points, and who, were paid more than the women. The Complainants argued that the failure to pay them the same as the men who had similar or less points was evidence of sex discrimination. The Respondent contended that the women were paid less than the men because the jobs were not “similar or comparable.” The Complainants introduced no evidence rebutting the Respondent’s reasons for its decisions. Therefore, the Complainants failed to prove this element of their prima facie case.

Even if the Complainants had proved their prima facie case, they still would not have succeeded because they did not establish that they were victims of discriminatory animus. However, I will undertake the final part of the *McDonnell Douglas/Ann Howard’s Apricot’s Restaurant* burden shifting analysis of the Complainants claims of disparate treatment in their salary discrimination claims under Title VII and CFEPa.

VI. FINAL ANALYSIS OF TITLE VII AND CFEP A CLAIMS:

The United States Supreme Court has recently addressed the issue of what a trier of fact may consider in deciding whether to adopt or reject the Respondent's legitimate, non-discriminatory reasons.

"Although intermediate evidentiary burdens shift back and forth under this framework, [t]he ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff.' *Burdine*, 450 U.S., at 253, 101 S.Ct. 1089. And in attempting to satisfy this burden, the plaintiff—once the employer produces sufficient evidence to support a nondiscriminatory explanation for its decision—must be afforded the 'opportunity to prove by a preponderance of the evidence that the legitimate reasons offered by the defendant were not its true reasons, but were 'pretext for discrimination.' (Emphasis added.) *Ibid.*; see also *St. Mary's Honor Center*, *supra*, at 507-508, 113 S.Ct. 2742. That is, the plaintiff may attempt to establish that he was the victim of 'intentional discrimination' 'by showing that the employer's proffered explanation is unworthy of credence.' (Emphasis added.) *Burdine*, *supra*, at 256, 101 S.Ct. 1089. Moreover, although the presumption of discrimination 'drops out of the picture' once the defendant meets its burden of production, *St. Mary's Honor Center*, *supra*, at 511, 113 S.Ct. 2742, the trier of fact may still consider the evidence establishing the plaintiff's prima facie case and inferences properly drawn therefrom ... on the issue of whether the 'defendant's explanation is pretextual,' (Emphasis added.) *Burdine*, *supra*, at 255, n. 10, 101 S.Ct. 1089."

Reeves, *supra*, p.2106.

The Supreme Court states that the Complainants, once the Respondent produces sufficient evidence to support a non-discriminatory explanation for its decision, must be afforded the "opportunity to prove by a preponderance of the evidence that the legitimate reasons offered by the Respondent were not its true reasons, but instead were "a pretext for discrimination." The Complainants had the opportunity to show that the Respondents "... proffered explanation is unworthy of credence." The Complainants introduced no evidence to prove, much less, by a preponderance of the evidence, that the Respondent's nondiscriminatory explanation were not its true reasons but instead was "a pretext for discrimination."

According to the U.S. Supreme Court in *Reeves*, as a trier of fact I "... may still consider the evidence establishing the [Complainants] prima facie case and inferences properly drawn therefrom ... on the issue of whether the [Respondent's] explanation is pretextual."

Reeves, supra 2106.

On the final factor of the Respondent's intent to discriminate, the Complainants Title VII and CFEPA cases fail. Ultimately, the Complainants' cases came down to the showing that they were paid less than the men and they had the same, or higher, job study points as the men. There is no evidence in this case to support their claim that the pay differentials in anyway related to the Complainants' sex.

VII. Pretext for Discrimination:

The Complainants were also unable to establish that the Respondent's legitimate reasons for its actions were not its true reasons, but "a pretext for discrimination." Considering all of the evidence, including the evidence establishing the Complainants' prima facie case, and inferences properly drawn therefrom, as a trier of fact, I am unable to say that the actions of the Respondent in this case were a pretext for discrimination and were not its true reasons or that the Complainants were victims of intentional pay discrimination based on their sex.

VIII. Conclusions of Law as to the Complainants' Title VII:

1. The Complainants did not establish two elements of their prima facie case.
2. The Respondent articulated a legitimate, non-discriminatory reason for its decision.
3. The Complainants did not meet their burden of showing by a preponderance of the evidence, that the reason articulated by the Respondent for the action was illegal discrimination and pretext for discrimination.

IX. ORDER:

The complaints are dismissed.

Dated this 13th day of July 2001 in Hartford, CT.

Hon. Leonard E. Trojanowski
Presiding Human Rights Referee

cc: Nancy Gyurko
Debra Remillard
Charlene Antonelli
Lisa Bambikidou
Attorney Victor Muschell
Attorney C. Joan Parker, Commission Counsel II
Attorney Raymond Pech, Deputy Commission Counsel
Honorable Henry S. Cohn, Superior Court - New Britain