

STATE OF WISCONSIN  
CIRCUIT COURT  
DANE COUNTY  
BRANCH 15

TOWN OF MADISON,  
Plaintiff,

vs.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION, and WISCONSIN COUNCIL OF  
COUNTY AND MUNICIPAL EMPLOYEES, AMERICAN FEDERATION OF STATE,  
COUNTY, AND MUNICIPAL EMPLOYEES, LOCAL 60,  
Defendants.

Case No. 94-CV-1327  
Decision No. 24816-B

NOTICE OF ENTRY OF DECISION AND ORDER

To: Mark B. Hazelbaker  
Axley Brynelson  
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Post Office Box 1767  
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PLEASE TAKE NOTICE that a decision and order affirming the decision of the Wisconsin Employment Relations Commission, of which a true and correct copy is hereto attached, was signed by the court on the 4th day of January, 1995, and duly entered in the Circuit Court for Dane County, Wisconsin, on the 4th day of January, 1995.

Notice of entry of this decision and order is being given pursuant to secs. 806.06(5) and 808.04(1), Stats.

Dated this 9th day of January, 1995.

JAMES E. DOYLE  
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/s/ David C. Rice

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STATE OF WISCONSIN  
CIRCUIT COURT  
DANE COUNTY  
BRANCH 15

Town of Madison,  
Plaintiff

vs.

Wisconsin Employment Relations Commission, and Wisconsin Council of County and  
Municipal Employees, American Federation of State, County, and Municipal Employees, Local 60,  
Defendants.

94 CV 1327  
Decision No. 24816-B

#### Decision and Order

This matter comes before the court on a Petition by the Town of Madison for a Chapter 227 administrative review of a decision rendered by the Wisconsin Employment Relations Commission (WERC) made pursuant to the Municipal Employment Relations Act. This decision held that the Town's Building Inspector was neither a "managerial employee" nor a "craft employee" but was a "municipal employee" and was therefore appropriately included in the Union bargaining unit.

Petitioner, the Town of Madison, maintains that the decision by the WERC is arbitrary and capricious because WERC failed to sufficiently articulate the factual basis for its conclusion. Petitioner also contends that a proper application of the facts must lead to the conclusion that the position of Building Inspector does entail managerial responsibilities or, in the alternative, that the position is a craft position. Either conclusion would require reversal of the Commission's decision to include the position in the bargaining unit.

The Union and the WERC contend that the WERC decision must be affirmed because the record contains substantial evidence to support the Commission's determination and because the record supports the conclusion that the Commission could reasonably decide that the Building Inspector was neither a "managerial employee" nor a "craft employee."

#### FACTS

The Wisconsin Council of County and Municipal Employees (union) is the exclusive collective bargaining representative for certain of the Town of Madison's (Town) employees. This bargaining unit consists of:

"All regular employees of the Town of Madison, including public works employees, clerical employees and other employees, excluding employees with the power to arrest, the fire chief, assistant fire chief and supervisory employees."

(Joint Exhibit 5).

These employees are deemed "municipal employees" under the Municipal Employment Relations Act (MERA). Section 111.70(1)(i), Stats. In order to accommodate an employer's need to manage its operations, MERA exempts certain categories of positions from being represented by the Union.

These positions include: supervisors, managers and confidential employees. Section 111.70(1)(i), Stats. Additionally, "craft" positions may not be included in a bargaining unit composed of non-craft employees unless the craft employees vote separately in favor of such representation. Section 111.70(4)(d)2.a., Stats.

Included within this bargaining unit until 1991 was a position for a Deputy Building Inspector. In October of 1991 the person holding that position was fired and the position remained vacant until January 1993, when the Town hired Matthew Wenzel for the newly created position of Building Inspector. This position was created by splitting the Director of Public Works position into two positions - Director of Public Works and Building Inspector. It was this reorganization which prompted the Union to file a petition with the WERC requesting a determination as to whether the position of Building Inspector should be included in the existing collective bargaining unit of Town of Madison employees represented by the Union. The Town contends that the new Building Inspector position should be removed from the bargaining unit because it is a managerial position. Alternatively, the Town maintains that even if it is not a managerial position, it is a "craft" position requiring a representation election to determine if the position should be included in the bargaining unit. After a hearing on the matter, the WERC issued an opinion on March 25, 1994, concluding that the position of Building Inspector was to be included in the bargaining unit. It is the appeal of this decision which is now before this court.

The job description formulated for the Building Inspector position articulates the following responsibilities: (1) enforcing building, HVAC, residential, and commercial property maintenance codes; (2) meeting with developers, builders, and public relative to building regulations; (3) reviewing plans and specifications for building code compliance; (4) consulting with property owners, builders, architects, and engineers about code applications and interpretations; (5) investigating complaints about various State, county and local code violations; (6) preparing and maintaining records required by State, federal and local authorities; (7) drafting proposed changes to existing Town codes and ordinances for consideration by appropriate Town committees and officials; (8) providing staff support to various Town committees; (9) preparing the annual Building Inspection budget; (10) overseeing maintenance of the Town's buildings/grounds; (11) recommending and implementing capital improvements to the Town's buildings/grounds; (12) performing miscellaneous licensing inspections, mobile home park inspections, and fire inspections; and (13) assisting in other projects needing the attention of the building inspector and as directed by the Town Board. (Joint Exhibit 1). The requirements necessary to perform this job include: (1) current certification by the State of Wisconsin as a qualified inspector in the areas of commercial, energy, general construction, and HVAC; or a combination of training and experience which would lead to certification within 6 months of employment; (2) customer relations skills; (3) communicate well with employees and public; (4) keep clear and accurate records; (5) thorough knowledge of current building and HVAC construction practices; and (6) supervise outside contractors on building/grounds capital projects. Finally, the job description lists the following

training and experience-necessary for the Building Inspector position as: (1) high school graduate supplemented by specialized courses in building/construction standards, with graduation from a college or technical school desirable; (2) 5 years experience in building construction with familiarity of building codes and ordinances; (3) experience dealing with general public; (4) supervisory experience.

Mr. Wenzel's qualifications for the job include 16 years as a construction superintendent or project manager for various construction companies. In these positions, he supervised skilled trade workers at the journey and master levels. He was licensed as a general contractor in Florida. To become licensed, he had to pass an exam and have a knowledge of construction. However, he was not required to have any journey level skills. Mr. Wenzel is not a skilled journey crafts worker in any trade and has not worked in any trade. Mr. Wenzel is certified by the State of Wisconsin to perform inspections and to enforce the state building codes. These inspections do require him to review the work of a variety of skilled trades workers including those at the journey level and above. To perform these inspections, Mr. Wenzel must have knowledge of the work these skilled trades workers perform.

In the course of the hearing before the WERC, Mr. Wenzel testified that his responsibilities are conducted in the following manner: 30% - inspection and enforcement of codes; 25% - meeting with developers, builders, and public about building regulations; 10-15% - investigating complaints regarding code violations; 10% - reviewing plans and specifications for code compliance; 10% - overseeing maintenance of Town grounds/buildings; 5% - consulting with owners, builders, architects and engineers about code applications/interpretations; 5% preparing records required by federal, state, and local agencies and drafting proposed local code changes; 5% assisting in other projects as directed by Town Board and providing staff support to various local committees.

Additionally, Mr. Wenzel testified that as Building Inspector he is authorized to stop any type of construction job if he discovers that the job is not in compliance with building codes. He issues permits, correction orders, and is even authorized to issue citations for failure to stop a job and make corrections, repairs or to comply with code requirements. Mr. Wenzel also drafts and recommends changes in the Town building codes and ordinances as the need arises. He presents these proposals to the Town Board which is the final authority with respect to implementation of these proposed changes.

Mr. Wenzel is also responsible for supervising the work of the Town plumbing inspector and the Town electrical inspector. These two positions are actually hybrid positions. They are not really Town employees because their payment derives not from a salary but from the number of permits issued. This arrangement makes them more like independent contractors paid on a per fee or permit basis. However, the Town does withhold payroll, FICA and state taxes from their monthly checks. They are not considered Town employees for worker's compensation or unemployment compensation purposes. Mr. Wenzel has the authority to conduct performance reviews, reprimand them for misconduct, and recommend hiring and firing. However, the Town Board retains the final authority on his recommendations.

Mr. Wenzel is also responsible for preparing the budget for the building inspection department. The majority of the budget is for salaries and wages. He does not have any control over this aspect

of the budget. It is prepared by the Town Manager. However, Mr. Wenzel does have input into the amounts budgeted for separate line items like contractual services, supplies, operating expenses, and repair/maintenance of town buildings. In preparing his budget, Mr. Wenzel testified that he reviews the old budget, makes corrections where needed for the new budget and then recommends the completed document to the Town Board for final approval. To make changes to the budget, Mr. Wenzel must justify them before the Board and make those requests to the business manager or Board. He lacks the independent authority to change money from one line of the budget to another line. Mr. Wenzel testified that he spends approximately 40 - 80 hours on the budget.

## DISCUSSION

The standard of review of an administrative decision depends on whether the issues presented involve questions of law or fact. A court must separate the factual findings from the conclusions of law and apply the appropriate standard of review to each. Badger State Agri-Credit v. Lubahn, 122 Wis. 2d 718, 723 (Ct. App. 1985).

In the case before this court, the Town raises two issues. First, it contends that the WERC failed to sufficiently articulate the reasons for its decision. This is a legal question which requires this court to evaluate the structure of the Commission's decision to determine whether there are sufficient facts to support the conclusions reached by the Commission. This review can be conducted without deference. Section 227.57(5), Stats. Secondly, the Town contends that the position of Building Inspector is not a "municipal employee" position as defined by Section 111.70(1)(i), Stats. but is either a managerial position or craft position. This determination also presents a question of law. Milwaukee v. Wisconsin Employment Relations Comm'n., 43 Wis. 2d 596, 600 (1969). However, because this issue presents a legal question focusing on the agency's construction of a statute (MERA) and its application to a particular set of facts, the court's review of this second issue is more deferential.

The construction of a statute and its application to a particular set of facts is a question of law. Eau Claire County v. WERC, 122 Wis. 2d 363, 365 (Ct. App. 1984). A reviewing court is not bound by an agency's conclusions of law; however, if the agency's legal conclusions are reasonable, the reviewing court will sustain the agency's view even though an alternative view may be equally reasonable. Kenwood Merchandising Corp. v. LIRC, 114 Wis. 2d 226, 230 (Ct. App. 1983). Where a legal question is intertwined with factual determinations, the court should defer to the agency with primary responsibility. Revenue Dept. v. Lake Wisconsin Country Club, 123 Wis. 2d 239, 242 (Ct. App. 1985). In fields in which the agency has particular competence or expertise, a reviewing court should not substitute its judgment for the agency's application of a particular statute to the found facts if a rational basis exists in law for the agency's interpretation. Wis. Environmental Decade v. Public Service Comm., 105 Wis. 2d 457, 460 (Ct. App. 1981). Where, however, a legal question is concerned and there is no evidence of any special expertise or experience, the weight to be afforded an agency interpretation is no weight at all. Local No. 695 v. LIRC, 154 Wis. 2d 75, 84 (1990).

Because WERC is charged with applying MERA, its interpretation of this statute is entitled to great weight. Drivers, etc., Local 695 v. WERC, 121 Wis. 2d 291, 294 (Ct. App. 1984). WERC has well-established expertise in distinguishing between municipal and managerial employees.

Milwaukee v. WERC, 71 Wis. 2d 709, 716-17 (1976). Where an agency's expertise is involved in the application of a law to a set of facts, we defer to any reasonable conclusion of the agency. Nigbor v. DILHR, 120 Wis. 2d 375, 383-84 (1984). Therefore in a case such as this where WERC is required to distinguish between municipal and managerial employees, this court will defer to its application of MERA if there is any reasonable or rational basis to support it.

### Issue 1

The Town first contends that the Commission's decision failed to articulate sufficiently the basis for its conclusions. In support of this assertion, the Town argues that the decision contains no analysis of the facts, only legal conclusions. In addition, the Town contends that there are no citations to the record to identify the testimony or evidence upon which the Commission based its conclusions. It also argues that evidence which favored its argument that the Building Inspector position was managerial or craft was ignored or brushed aside and that the Commission failed to consider the evidence in the context of the size of the Town of Madison.

This court finds this argument unpersuasive. The Petitioner cites no authority to establish the requirement that the Commission must cite to the record to identify the testimony or evidence it is considering. In fact, as pointed out in WERC's brief, an administrative agency decision must be accompanied by findings of fact and conclusions of law and the findings of fact must be a concise, separate statement of the ultimate conclusions upon each material issue of fact without recital of evidence. Section 227.47(1), Stats.

The Town correctly argues however that an agency decision must fill in the gap between the facts and the conclusion otherwise a reviewing court could determine that the agency exercised its discretion in an arbitrary and capricious manner. A reviewing court must be able to determine why the decision maker made the decision it made. The decision must explain how the agency reached that result. This requires more than just an articulation of the factors considered by the agency. Kammes v. Mining Investment and Local Impact Fund Board, 115 Wis. 2d 144, 157 (Ct. App. 1983). However, it is sufficient if those findings of fact and conclusions of law are specific enough to inform the parties and the reviewing court of the basis of the decision. Wis. Environmental Decade v. Public Service Comm., 98 Wis. 2d 682, 701 (Ct. App. 1980).

The Town argues extensively that the WERC failed to consider numerous factors and indicia of the Building Inspector's managerial or craft status. It frames its argument with such phrases as the Commission having "disparaged the Building Inspector's involvement in the Town's housing code and policy" and the "brushing aside" or "completely ignoring" of other evidentiary factors. However, just because the Commission did not issue those factors in its findings of fact does not mean that they were brushed aside or ignored. The Commission must sort through all the evidence presented and make determinations as to the weight and credibility of that evidence. The findings of fact the agency does eventually make are conclusive as long as they are supported by credible and substantial evidence. Section 227.57(6), Stats. There may be conflicting views which each may be sustained by substantial evidence. In such a case, it is for the agency to determine which view of the evidence it wishes to accept. Hamilton v. ILHR Dept., 94 Wis. 2d 611, 617 (1980). The weight and credibility of evidence is solely within the province of the administrative agency and a court will give deference to an examiner's evaluation of the disputed evidence, including

credibility. Amtronix Industries, Ltd. v. LIRC, 115 Wis. 2d 108, 114-15 (Ct. App. 1983). Upon review, this court cannot make an independent determination of the facts. This court may only determine whether there was any substantial evidence to sustain the findings that were in fact made. Unruh v. Industrial Comm., 8 Wis. 2d 394, 39,8 (1959).

Here, there is clearly substantial evidence to sustain the findings of fact which the WERC made. The Town does not seem to dispute or challenge those findings which the Commission did make. Rather, the Town's argument seems concerned with the evidence which the Commission deemed not as weighty or credible and which therefore was not included in its findings of fact. For example, the Town refers to the extent of the Building Inspector's involvement in developing housing codes and policy, the significant amount of discretion attached to the Inspector's enforcement responsibilities, and the Inspector's responsibilities for managing the Town's public safety program. However, the agency need not substantiate its reasons for not adopting all of the alternatives urged on it. Wis. Environmental Decade v. Public Service Comm., 98 Wis. 2d 682, 702 (Ct. App. 1980).

In addition, upon reviewing the WERC's conclusions of law, this court finds the Commission did explain its reasons for finding that the Building Inspector position was neither managerial nor craft. The entire findings of fact section contains numerous references to factual evidence which the Commission accepted and which supports this conclusion. In addition, in the discussion section of the opinion, after setting forth the legal standards upon which it is required to evaluate the evidence, the Commission identified further specific factual bases upon which it concluded that the position was neither managerial nor craft. For example, the Commission noted that the budget responsibilities of the Inspector were ministerial because the bulk of the budget is devoted to salary items over which the Inspector has no control. Further support was gleaned from the evidence that the remaining line items over which the Inspector did have control were determined by baselines already established through prior years experience making the process one of routine projecting forward as opposed to reflecting affirmative policy decisions made by the Building Inspector. The Commission also cited evidence supporting its conclusion that the position does not affect the formulation of policy at a high level. For example, the Commission notes the Inspector's role on several Town committees is to provide practical and technical expertise rather than actual policy formulation affecting the Town's operations. To support its determination that the position is not a craft position, the Commission relied on the job description and the testimony by Mr. Wenzel regarding his experience in finding that neither met the standard for being a craft position. Thus, while further specific evidentiary facts from the record could have been included to support the Commission's conclusion, this court finds that the Commission did not abuse its discretion and did articulate sufficient facts from which a reviewing court could find that there was substantial evidence to support its opinion.

## Issue 2

The Town further argues that the decision is erroneous because the evidence on the record is sufficient to establish that the Building Inspector is managerial and/or craft. The Town argues that this court must review this determination without deference to the WERC. This standard of review is incorrect. As this court has set out above, the standard of review the court must apply to this issue is one of great deference to the agency because of the agency's expertise in applying MERA.



Section 227.57(10), Stats. We will defer to the agency's application of MERA if there is any reasonable basis to support it.

The Wisconsin Supreme Court has accepted WERC's definition of "managerial employees." A managerial employee is one whose relationship to management imbues them with interests significantly at variance with those of other employees. Milwaukee v. WERC, 71 Wis. 2d 709, 716 (1976). (emphasis added). This determination requires application of a two-fold test. The first test is whether an employee participates in formulating, determining and implementing management policy. The second test is whether an employee has effective authority to commit the employer's resources, or the authority to establish an original budget or to allocate funds for differing program purposes from such an original budget. Kewaunee County v. WERC, 141 Wis. 2d 347, 353 (Ct. App. 1987).

As to the first test, the Commission requires that the employees participation in formulating and implementing management policy must be at a relatively high level of responsibility for a position to qualify as managerial. City of Mauston, Dec. No. 21424-E (WERC, 11/93). The test is not whether the position has any managerial authority but whether the position has significant managerial authority. Eau Claire County v. WERC, 122 Wis. 2d.363, 365 (Ct. App. 1984).

In this case, the WERC concluded that the Building Inspector position did not possess the level of managerial responsibility necessary, to meet the test. It appears that the Commission was particularly persuaded by the substance of and amount of time devoted to those activities which the Town argues are indicia of managerial status. The Commission noted that while the Building Inspector does sit on various Town committees which deal with Town policy, the substance of the Inspector's role is relegated to providing technical expertise as opposed to significantly affecting the nature and direction of the Town's operation. His job description states that he is to provide "staff support" to those committees. The committees do not adopt policy for the Town nor do they even give advice to the Town Board which does development Town policy. The evidence indicates that the Building Inspector has not even participated on either the Planning and Community Development Committee or the Dane County Zoning Board of Appeals. This committee work involves only 1% of his time.

Neither was the Commission persuaded that the significant amount of discretion accorded the Building Inspector in allocating his responsibilities and directing his priorities amounts to managerial status. The fact that the Building Inspector can decide to investigate residential code violations instead of commercial code violations is simply a function of his job as the Building Inspector. It is not a managerial function in the sense that such discretion affects the Town's operation. Nor does it imbue his position with interests significantly at variance with those of other employees. This is part of his role as a Building Inspector just as his ability to issue permits, correction orders, and citations involve discretion but are part of his job as Building Inspector. The mere fact that a position is imbued with a substantial amount of discretion does not necessarily lead to the conclusion that the position is managerial in nature.

The Commission also found that the fact that the Building Inspector can recommend capital improvements was not indicative of managerial status. This was because it deemed the Inspector's role in this area as providing technical assistance to the Town Board as opposed to affirmatively

and independently determining the necessity of the improvements and then on his own authority allocating and committing the resources for those items. It is the Inspector's role to monitor the need for capital improvements and then notify the Town Board. The expenditures are approved and committed by the Town Board.

In only two areas did the Commission signify that the Building Inspector position might participate in affecting Town Policy. First, the Inspector participated in the decision to replace a contracted janitorial service with a part-time employee. However, the testimony indicated that the Inspector did not originate the idea nor did he make specific recommendations on this issue. Secondly, it may be that the Inspector will assume supervisory responsibility for the new janitorial position but that eventuality is too speculative to consider at this time.

Consequently, given the nature of the duties identified as managerial and the amount of time devoted to those duties, it was not unreasonable for the Commission to conclude that the position failed to meet the first test of managerial status.

Under the second test, a court determines whether the employee possesses effective authority to commit the employer's resources. The Town argues that the Building Inspector's budgetary responsibilities constitute effective authority to commit the Town's resources. For this to be so, the employee must possess the discretionary power to determine the type and level of services to be provided and the manner and means by which those services will be delivered. Kewaunee County v. WERC, 141 Wis. 2d 347, 355 (Ct. App. 1987).

Formulating a budget, as opposed to merely submitting a budget, involves determining the services required, the number of persons necessary to deliver those services, and the quantity and type of equipment and supplies required to provide those services. Consequently, to possess effective authority to commit an employer's resources, an employee preparing a budget must possess the authority to effectively recommend the amount and the manner in which funds will be expended in support of each of the services provided.... This test focuses on the power to determine the manner and method by which the office discharges its responsibility. Submitting last year's budget if it reflects the affirmative decisions of the person preparing the budget is sufficient to meet this test. Submitting a budget that does not reflect the decisions of its preparer is not an original budget and fails this test.

Id. at 355-56.

In this case, the Commission's determination that the Building Inspector's budgetary duties failed to confer managerial status is reasonable. This determination was based on the testimony of the Building Inspector and the Town Manager as well as the budgetary exhibits. The Inspector testified that only 2-3% of his time was spent on preparing the budget. The vast majority of his budget is devoted to salary items over which the Inspector has absolutely no control. These are prepared by the Town Manager. The remaining line items require the Inspector's input. These items are described as contractual services and include inspection fees, telephone, computer, supplies, travel reimbursement, training, photo supplies, repairs made by Town Inspector, and miscellaneous expenses. The total budgeted for these expenses is approximately \$12,250 out of a \$51,000 budget.

However, the Inspector fees, which comprise \$5,200 of the \$12,250 are customarily set by using the DILHR fee schedule. As to the remaining items, the Inspector testified that he takes last year's budget and allocates the dollars making adjustments for the coming year. He bases his adjustments on baselines established from prior years experience. The Inspector testified that he does not spend the money of the Town freely without letting them know or at least have knowledge of what to expect. Additionally, the Building Inspector does not have the authority to move dollars from one line item to another. Finally, the evidence indicates that the final authority for the budget and any changes made to it rest with the Town Board which may accept or reject the Building Inspector's recommendations. Considering these factors, it is reasonable to conclude that the Building Inspector's budget role does not reflect a significant affect on Town policy decisions. Given the amount of time devoted to this role, the routine of the tasks presented, the amount of actual discretion or authority the Building Inspector can actually exert, and the lack of authority to initiate and independently make expenditures, it is reasonable to conclude that the budget does not necessarily reflect the decisions of its preparer.

Finally, the Town argues that even if the position of Building Inspector is a municipal employee, it must be considered a craft position. Again, this court finds that the evidence supports a reasonable conclusion that the position of Building Inspector for the Town of Madison is not a craft position. Section 111.70(1)(d), Stats. provides:

"Craft employe" means a skilled journeyman craftsman, including his apprentices and helpers, but shall not include employes not in direct line of progression in the craft.

To constitute a craft employe within the meaning of this provision, an employe must have a substantial period of apprenticeship or comparable training. The Commission recognizes an experience equivalent where it is clearly demonstrated to exist. The actual work performed is given greater weight than a requirement for a certain title, level of pay or diversity of duties. Adams County, Dec. No. 27093 (WERC, 11/91).

In this case, the evidence established that Mr. Wenzel did not have an actual journeyman's license in any craft. He is not required by the Town nor has he ever spent a substantial period of apprenticeship or comparable training in any single craft. His job description requires high school graduation, specialized courses in building/construction standards, 5 years experience in construction, public relations experience, and supervisory experience. The record indicates that while Mr. Wenzel does have 17 years of construction industry experience, and is licensed in the State of Florida as a general contractor these do not require journey level skills. While his position may require knowledge of how the work is to be done for all trades including journeyman level work, this is simply not sufficient to meet the definition of craft employe. He has neither a Journey license, equivalent experience, nor is he in direct line of progression in the craft. Basically, Mr. Wenzel's position requires him to be a "jack-of-all trades" but "master" of none.

This conclusion is consistent with other WERC decisions. In City of Appleton, Dec. 11784 (WERC, 4/73) the WERC determined that the City's Building and Housing Inspectors were craft employees because of the training and experience required by the City and because of the training and experience brought to the job by the employees. That is not the case here. In City of Kenosha,

Dec. 12620 (WERC, 4/74) the WERC reached the same conclusion as in City of Appleton because Kenosha required its Building Inspector to have 2 years of construction experience as a journeyman craftsman. That is also not the case here.

Consequently, this court finds that the Commission's conclusion regarding the craft status of the Town of Madison's Building Inspector position was reasonable.

ORDER

For all of the reasons stated above, this court orders that the decision of the WERC in Town of Madison, Dec. No. 24816-A (WERC, 3/25/94) be AFFIRMED.

So Ordered.

Dated and mailed this 4th day of January, 1995.

By the Court

/s/ Stuart A. Schwartz

Stuart A. Schwartz

Circuit Court

Branch 15