

City settles ADA suit for \$100K

Would-be officer said
Baltimore Police Dept.
focused on 1998 injury

By DANNY JACOBS

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The city's **Board of Estimates** on Wednesday is set to approve a \$100,000 settlement with a Pennsylvania man who alleged he was not hired by the **Baltimore Police Department**, despite being qualified, because of a back injury he suffered more than a decade earlier.

Bradd Atkinson passed the department's physical agility, background and psychological tests in 2009 but was told his 1998 back injury "posed a liability problem," according to the complaint he filed in November 2012 in **U.S. District Court** in Baltimore.

Atkinson sought damages under the Americans with Disabilities Act, which prohibits discrimination in hiring. A settlement was reached May 2 and approved last week by Judge William D. Quarles Jr., according to court filings.

"A BPD investigation revealed that the perceived injury was, in part, a motivating factor in the failure to hire Mr. Atkinson," according to a memo about the settlement from the city's **Law Department** to the Board of Estimates.

Atkinson suffered a lower back injury while a member of the **Baltimore County Police Department** and was advised to apply for disability retirement, which he received in November 2000, according to the lawsuit.

Atkinson's health improved by 2009 but he was denied reinstatement by the county police's pension board, leading him to apply to the city's police force that summer, he alleged.

In addition to passing multiple screening tests, Atkinson was cleared to work by a health care provider at **Mercy Medical Center** in September, according to the lawsuit. Two detectives visited Atkinson at his home for a final interview Oct. 1, 2009, and told him he was hired as a police officer, he alleged.

A few days later, however, Atkinson was asked to provide additional information

about his back injury, a 1997 misconduct charge and why he was no longer working for the county police force, the complaint said. Atkinson supplied all of the information and was told he would be contacted the following day about starting his training, the he alleged.

When the call never came, Atkinson called police officials and was told his file had been referred to the legal department for further review, according to the complaint.

Atkinson received official word Oct. 19, 2009 that he would not be offered employment on the police force, according to the lawsuit. He has since found other employment, according to the city's Law Department.

City Solicitor George A. Nilson declined to comment on the settlement beyond what was the memo prepared for the Board of Estimates.

Morris E. Fischer, a Silver Spring solo practitioner and Atkinson's lawyer, declined to comment about the case or the settlement. Fischer also declined to comment as to whether Atkinson is still receiving disability payments from the Baltimore County Police Department.

ATKINSON V. BATTS ET AL.

Court: U.S. District Court Baltimore

Case No.: 1:12-cv-03405-WDQ

Judge: William D. Quarles, Jr.

Outcome: \$100,000 Settlement

Dates: **Events:** July 2009 through October 2009

Suit filed: Nov. 20, 2012

Settlement order: May 5, 2014

Plaintiff's Attorneys: Morris E. Fischer, Silver Spring solo practitioner and Michael J. Crocenzi of Goldberg Katzman P.C. in Harrisburg, Pa.

Defendants' Attorneys: Glenn T. Marrow, Jennifer S. Lubinski and Gary Gilkey of the Baltimore City Law Department

Counts: Violations of the Americans with Disabilities Act