

LEGAL RESOURCES AVAILABLE TO MUNICIPAL OFFICIALS WHO YOU CAN TURN TO FOR ADVICE

With the onset of spring (yes it's really spring) and local officials assuming their initial responsibilities following Town Meeting, it is an opportune time to review the various legal resources available to local officials. The good news is that there are several places municipal officials can turn to obtain legal advice, and some of the advice is available free of charge. However, it is important to keep in mind that each of these legal resources plays a different role, and municipal officials must recognize the type and level of legal assistance they need based on each situation.

It is also crucial for officials seeking legal advice to understand that the law is often open to interpretation. As such, you may get different legal advice depending on who you present with a legal question.

It is true that there are some areas of the law that are relatively clear. Advice dispensed by legal experts on statutes that are "clear" will be more or less uniform.

In Vermont, however, the fact of the matter is that many of the laws that govern municipalities are less than crystal clear. Unless the legislature clarifies such laws or the courts render a decision on the interpretation of a vague statute, legal experts who you ask for advice must do their best to predict how the courts would interpret a statute. This advice will only be an interpretation and an opinion whether it is dispensed by VLCT, the Secretary of State's Office, the Attorney General's Office, your municipal attorney or any other legal expert. Such advice is not binding on a town. It is only a recommendation for the proper course of action.

Accordingly, when the law is not clear on a particular point, municipalities need not and should not take the word of any particular expert as providing a definitive answer. After all, we will never truly know the "right" answer to a legal question regarding an unclear statute unless the Vermont Supreme Court renders a decision on its meaning.

When consulting multiple legal experts for advice on a legal question that is open to interpretation, it is important to ask the question in the same manner to each lawyer, as leaving out an important fact could significantly change the advice given. Ultimately, the local official must weigh differing opinions given by legal experts before deciding on a particular course of action. At the end of the day, it is the local decision-maker who will have to live with the repercussions of taking a particular course of action, not the legal expert. Accordingly, it is wise to have as much information regarding complex legal questions in your hands as possible before taking action. But that's just our advice.

Below is a brief summary of some of the legal resources available to municipalities.

THE VLCT MUNICIPAL LAW CENTER

The VLCT Municipal Law Center is an excellent source for legal advice, if we do say so ourselves. The Law Center was established by VLCT in 1989 to provide legal advice and information to member municipalities on any legal matter facing a city or town. While the Law Center will consider any legal question you may have, it will, if necessary, advise you when a matter requires the attention of your town attorney, a legal specialist, or a state authority. The Law Center has two staff attorneys (Jon Groveman and Libby Turner) and a paralegal (Gail Lawson) available Monday through Friday to answer the legal questions of municipal officials over the phone for free. You can call us at our toll free number (800/649-7915) or e-mail us (info@vlct.org) with a legal question. You can also visit our web site at <http://www.vlct.org/>.

It is important to note that when you call for advice we are providing advice to you as an agent of the municipality. Thus, the municipality is the client. This means that, while we don't share that advice with the public, we *will* share it with other affected officials *unless you specifically ask us not to*. In fact, since telephone advice is, by its very nature, subject to misunderstanding, we are often asked to explain to one member of a board or body the advice we gave another member. We will also send copies of any written opinions to the selectboard or manager of a community, and to its regular legal counsel, if requested. For more information on how the Law Center operates, consult the Law Center's User Guide on the VLCT website.

In addition to providing advice over the phone, the Law Center will provide formal written legal opinions to municipalities at the reasonable rate of \$75 per hour. While a formal written legal opinion on a question of law will not immunize a municipality from being sued, it is an excellent way to demonstrate

that you, as a local decision maker, have acted prudently and responsibly in dealing with a difficult legal question.

The Law Center also produces numerous handbooks that summarize the laws that govern municipal officials and presents a wide variety of workshops throughout the year that are geared to providing continuing education for municipal officials. Call us to get a list of the handbooks we have available and keep an eye out for mailings advertising upcoming workshops.

Two of the Law Center's most popular workshops are coming up in May: the New Selectboard Training on May 24th (a must for newly-elected selectboard members and an excellent opportunity for experienced members to polish their skills) and the Workshop for Municipal Clerks on May 10th. For planning and zoning officials, in collaboration with the regional planners, the League will be presenting a basics workshop via Vermont Interactive Television (VIT) on June 6, 2001. In the coming fiscal year, a quarterly planning and zoning basics program (9/12/01, 12/12/01, 3/30/02, 6/ 12/02) through VIT will be offered throughout the state.

THE VERMONT DEPARTMENT OF TAXES

The Vermont Department of Taxes (DOT) can answer questions from municipal officials regarding property valuation and assessment. The DOT Division of Property Valuation and Review regularly provides information and legal advice on issues such as listing and assessing property, tax appeal process, filing property transfer tax forms, the current-use program and the land gains tax. You can contact the DOT Division of Property Valuation and Review at 802/828-5860 or visit the DOT website at <http://www.state.vt.us/tax/contact4.htm#prop>.

THE VERMONT SECRETARY OF STATE'S OFFICE

The Vermont Secretary of State's (SOS) Office, through the Vermont Archives, is the custodian of many of Vermont's government records. The SOS's office oversees Vermont's notaries public and administers the licensing of business entities and filing of UCC financing statements. It oversees the state's elections. Accordingly, VLCT will often refer municipalities with questions regarding Australian ballot elections to the SOS. The SOS's Office also has compiled a variety of resources related to municipal government. You may contact the SOS's office at 802/828-2363 or by visiting its website at <http://www.sec.state.vt.us/>.

THE PRIVATE MUNICIPAL ATTORNEY

Many cities and towns contract with a local law firm or attorney to provide general legal services to the municipality. Town attorneys provide a wide variety of functions for municipalities including drafting contracts and ordinances, representing the municipality in court and providing general legal advice. The VLCT Law Center will often advise municipalities to consult with their town attorney when an issue is likely to end up in court or when the matter requires the type of face-to-face legal consultation that only your local attorney can provide. In addition, certain matters that require a legal specialty, such as bankruptcy issues, labor union negotiations and certain financial issues, require the attention of a legal specialist. It is the practice of the VLCT Law Center to advise municipalities when the town attorney or legal specialist should be consulted. If you need legal help in a specific area call the VLCT Law Center. The VLCT Law Center has a list of lawyers and their respective areas of expertise. We will provide legal referrals from this list free of charge when a municipality is dealing with an issue that requires the attention of a legal specialist.

- Jon Groveman, Esq.

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