

MUNICIPAL AUTHORITY OVER LIBRARIES UPHELD

In an April decision, the Windsor County Superior Court issued a ruling that authorized the Town of Hartford to exercise control over certain aspects of the management of the Town's library.

This case addresses who has the relative authority with respect to the operation of the public library of Hartford, and more specifically the salary and benefits of the librarians. The dispute arose between the independently-elected library trustees and the selectboard and town manager. The library trustees ultimately filed suit in Superior Court to enjoin the selectboard from interfering in what the trustees perceived to be their affairs. With the facts largely uncontested, Superior Court Judge Cook resolved the issues by examining the legislative intent of the statutes in question.

First, the court concluded that a library is a "department" within the meaning of 24 V.S.A. § 1236. In subsection (3), the town manager requirements expressly cover "every department," including "departments over which such manager is not given control." Judge Cook explained that, by reference, this "implies that, even if the manager does not have full control over an entity within the town government, that entity may still be considered a 'department' for at least some purposes."

To support the claim that the trustees have operated the library as an entity within the town government, the court remarked that the library trustees acquiesced some control to the town manager. For example, the Hartford town manager purchased heating oil for the library, and the Town also provided the library employees workers' compensation insurance and unemployment insurance. As a result, this successfully demonstrates that a town library falls under the definition of a department of the town.

The court next analyzed 22 V.S.A. § 143, which gives the board of library trustees "full power to manage the public library." This is the main statute that the library trustees relied upon to support their claim that they should legally not be considered to be under the control of the selectboard or town manager with regard to decisions such as personnel policies.

With regard to 22 V.S.A. § 143 the Superior Court ruled that the statute does not specifically refer to the library employees, their salaries or other benefits. Judge Cook ruled that 24 V.S.A. § 1121, which grants the municipality the authority to adopt personnel rules applying to "all employees" of the municipality, is more specific than the broad grant of authority in 22 V.S.A. § 143. Accordingly, Judge Cook concluded that 24 V.S.A. § 1121 is the controlling authority in this case, and the library trustees must adhere to the town's personnel policy.

This Superior Court decision is important for several reasons. First, as far as VLCT can tell, this is a case of first impression for Vermont courts. VLCT is not aware of any other Vermont court decision that squarely addresses the issue of whether elected library trustees may operate independently of the town legislative body and town manager, if a town has adopted a manager form of government.

Second, it has come to VLCT's attention that the type of struggle over authority that occurred in this case is occurring in other Vermont municipalities. Accordingly, it is helpful to have some guidance from a Superior Court about this issue of authority.

Third, the decision clarified that, at least with regard to personnel issues, elected trustees must adhere to the town's policies. This is a key point because without the

authority to control the manner in which town departments address personnel issues, the municipality would be more vulnerable to personnel lawsuits. Imagine, for example, if the library trustees refused to follow the town's sexual harassment or discharge or discipline policy. Employees adversely affected by these decisions could sue the town for relief. The employees could not sue the town library because it does not exist as a legal entity separate from the town. (As opposed to an independent library – it is vital to understand whether you have a true town library or an independent library that obtains some town financial support.)

While this decision is favorable to municipalities, it is a Superior Court decision that does not create statewide precedent. In addition, VLCT understands that the decision has been appealed to the Vermont Supreme Court. VLCT will monitor the progress of the case and seek to participate as an *amicus* party to argue that elected trustees must adhere to town-wide policies regarding the management of personnel and the maintenance of facilities, if the appeal proceeds forward.

It is also important to note that the decision ultimately focuses on the authority of elected library trustees to independently address personnel matters. To a large degree, the decision leaves open other issues of authority that may arise between trustees, selectboard members and the town manager. VLCT's advice is to contact the Municipal Law Center and your town attorney if these issues arise in your town.

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