

COURT GRANTS MUNICIPAL LIBRARY TRUSTEES MORE AUTHORITY

The Vermont Supreme Court has overturned a decision of the Windsor County Superior Court, thereby restricting the authority of towns to regulate municipal libraries. In its decision last month, the Court stated, “to the extent that a municipal library can be considered a department of the town, it certainly is not a department over which the town manager has been given direct control.” *Hartford Board of Library Trustees v. Town of Hartford*, No. 2002-207 (Vt. November 21, 2002). The question presented by this case is whether the town (through its town manager) or the library board of trustees has authority to set the level of compensation for the town librarian.

The Supreme Court sided with the library trustees, stating, “the Legislature could have used the simple infinitive ‘to manage’ in [22 V.S.A.] § 143 (a), but instead chose the phrase ‘full power to manage.’” *Id* at 3. The statute relied upon in this case by the trustees states: The library board of trustees “shall consist of not less than five trustees who shall have *full power* to manage the public library, make bylaws, elect officers, [and] establish a library policy . . .” 22 V.S.A. § 143 (a) (emphasis added).

This case is one of dueling statutes, and the job for the Court was to boil these statutes down into a real world scenario where the power to manage is more clearly defined. The Town relied on a number of statutory provisions in laying out its case: “The selectmen shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.” 24 V.S.A. § 872. Hartford relied on this statute, as well as another statute that gives municipalities broad authority in regulating personnel, whether it be through personnel policies, setting employees’ salaries, or dismissing them. 24 V.S.A. § 1121.

While the phrase “full power to manage” is certainly indicative of the Legislature’s intent to grant *some* authority to the library trustees, VLCT believes the Court’s interpretation of the law undermines the general powers of the selectboard to control town government. VLCT believes the decision in *Hartford* impinges on the ability of Vermont municipalities to conduct business in a uniform manner, such as running the town library as a town can run most other municipal departments.

This opinion turns on its head the legal advice the VLCT Municipal Law Center has been giving to municipalities. Many towns have called the Law Center and asked for advice when they have been in the same situation. The question always sounds something like this: “Who can set personnel policies for the librarian or other library staff?” Because there has never been a clear answer to this question, Law Center staffers were pleased to see that the courts would have an opportunity to set the record straight with this case. Readers may remember reading the June 2002 edition of the *VLCT News Legal Corner*, where the superior court’s decision was discussed. The lower court’s decision seemed to lend some clarity to the library statutes, which are difficult to decipher and don’t clearly delineate with whom the power to manage lies. The lower court decision was also favored by most municipalities, as it reinforced a more cohesive framework of municipal government.

It is not difficult to see the resonance this case will have in municipalities throughout the State. Those towns that have a municipal library (one that is truly an arm of the town; there are many non-municipal libraries out there that receive public funds

and are open to the public – that doesn't make them "municipal") may experience increased difficulty in exerting influence over the administration of such departments. The Supreme Court believes there exists a need for a "spirit of cooperation" between library trustees and town managers/ selectboards across the state. (Note that while this case addressed the town manager, the decision applies to municipalities as an entity, whether there is a town manager form of government or just a selectboard or other legislative body.) VLCT agrees with this recommendation. However, with the increased funding available to municipal libraries, whether it be foundation grants, private donations, or town appropriations, there will be increased conflict over who has the "full power to manage" library administration. Look for VLCT to suggest a legislative response to this case in order to advance municipal authority in setting town-wide personnel policy.

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