



John DeStefano, Jr.
Mayor

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New Haven



Victor A. Bolden
Corporation Counsel

REGULAR AND ELECTRONIC MAIL

September 1, 2010

Michael A. Jefferson
Attorney at Law
696 Dixwell Avenue
New Haven, CT 06511

Dear Attorney Jefferson:

Thank you for responding so quickly to my e-mail of last night. Your response, however, is rather troubling. Even more troubling, though you received my e-mail last night, you nevertheless allowed service of subpoenas without proper legal authorization. One simply cannot provide legal representation to the City of New Haven ("City") without an executed written legal services agreement.

Under both the City's Charter and the New Haven Code of Ordinances, a validly approved and fully executed legal services agreement is required. Under the Charter, the Mayor is charged with signing "by himself . . . all written contracts of the city approved by the board of aldermen, except as otherwise provided in this charter, or any department or any office of the city in accordance with authority conferred upon them by this charter or by the ordinances, or otherwise by law" Charter, Article V, Section 12(c). The Mayor is also charged with seeing "that all contracts and agreements with the city are faithfully kept and performed." *Id.* at Article V, Section 12(d).

Section 2-162 of the Code of Ordinances provides that: "[n]o city official, employee or agency . . . shall engage any individual or firm to provide legal services to or on behalf of the city, nor . . . , without prior aldermanic approval. . . . A copy of each legal services contract executed on behalf of the city shall be filed promptly with the controller, city clerk, and corporation counsel." Thus, having a validly approved and duly executed legal services agreement in writing is not optional.

The plain language of Section 2-162 provides no exception for someone desiring to do pro bono work on the City's behalf. The words "shall engage any individual or firm to provide legal services to or on behalf of the city" make that clear. I have had other law firms providing pro bono services to the City undertake the very same process.

With respect to the aldermanic approval process, I do not consider their approval a "mere formality." As an attorney, you are aware that independent government entities determine for themselves what action to take (or not take) by casting votes.

In any event, Section 2-162 clearly requires that "each legal services contract executed on behalf of the city shall be filed promptly with the controller, city clerk, and corporation counsel." *Id.* Indeed, the Official Commentary to the Rules of Professional Conduct, Rule 1.5 ("Fees") states, "Generally, it is desirable to at least furnish the client with the general nature of the legal services to be provided, ...and to what extent the client will be responsible for any costs, expenses or disbursements in the course of representation . . . A written statement concerning the terms of the engagement greatly reduces the possibility of a misunderstanding." No such agreement is in place now.

Your letter of August 19th is a document not signed by anyone with authority to bind the City or initiate representation on the City's behalf. This letter also would have to have been fleshed out through such an agreement to establish, among other things, any expenses that the Tax Abatement Committee would be responsible for, if any, and what exact services were to be performed for them. Additionally, the City's typical agreements address issues such as indemnification and insurance, something more than your just giving us "proof of [your] professional liability insurance."

Before closing, I do want to address more squarely one other issue: your claim that my Office has been anything less than diligent in moving this matter forward. Here is a more precise accounting of the communication that occurred between you and my Office: (1) on August 5th, Ms. Paula Pernal informed you that, although "we were in the process" of obtaining approval from the Board of Aldermen's Leadership Committee, we could not move forward without your submittal of supportive documentation; (2) on August 13th, we re-requested this documentation from you, because you had not yet complied; and (3) on August 25th, you were copied on Ms. Pernal's letter to Leadership stating that we were "requesting [their] approval to enter into [the] outside counsel-agreement." Put another way, my Office has been working steadfastly to address this issue and to ensure it is done properly.

The whole issue of your providing legal services to the City, however, now appears moot. I have been informed that both Ms. Jacqueline Harris and Mr. Michael Newton will appear voluntarily before the Tax Abatement Committee on Tuesday, September 14th. Accordingly, your services, sought to ensure their presence before the Tax Abatement Committee, will no longer be needed.

~~Please know~~ that I do appreciate your willingness to provide pro bono services to the City.

Thank you again for your interest in providing assistance to this Committee.

Very truly yours,

A handwritten signature in cursive script that reads "Victor Bolden".

Victor A. Bolden
Corporation Counsel

cc: Alderman Michael Smart, Chair, Tax Abatement Committee
Alderman Carl Goldfield, President

SUBPOENA

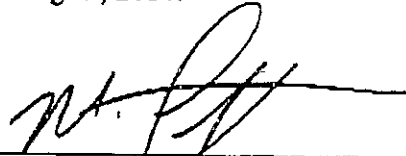
TO: **MICHAEL NEWTON**
1141 FORREST ROAD
NEW HAVEN, CT 06515

BY AUTHORITY OF THE TAX ABATEMENT COMMITTEE OF THE BOARD OF ALDERMEN OF THE CITY OF NEW HAVEN AND THE STATE OF CONNECTICUT, you are hereby commanded to appear at a meeting of the Tax Abatement Committee of the Board of Aldermen of the City of New Haven at City Hall (in the Board of Aldermen Chamber) at 165 Church Street, New Haven, CT, on the 14th day of September, 2010 at 6:00 P.M. to testify as to your duties, responsibilities and official actions taken as a member of the **BOARD OF ASSESSMENT APPEALS.**


HEREOF FAIL NOT, UNDER PENALTY OF LAW.

To any proper officer or indifferent person to serve and return.

Dated at New Haven, Connecticut this 27th day of August, 2010.



MICHAEL A. JEFFERSON, ESQ.
Commissioner of the Superior Court

A TRUE COPY ATTEST


AN INDIFFERENT PERSON
JOSEPH S. DeMATTEO