

CITY OF HARTFORD

INTERDEPARTMENTAL MEMORANDUM

TO: Calixto Torres, President

FROM: John Rose, Jr., Corporation Counsel

SUBJECT: **Charter Revision Commission**

DATE: August 4, 2009

JR Jr. 8/4/09

Following the July 22, 2009 Special Meeting of the Council to address the draft report of the Charter Revision Commission, the question of the Council's failure to comply with the mandatory statutory requirements of Chapter 99 of the General Statutes came up directly.

I addressed several emails to an attorney at the Secretary of State's office and then sent the enclosed letter to Secretary of State Bysiewicz, seeking guidance.

In short, the question is whether, if the provisions of the law regarding the ways and means of implementing Charter Revision are mandatory, including (a) the obligation of the Council to hold at least one public hearing and (b) to receive recommendations addressed to the draft Commission report, and if those provisions were not followed, then is the process flawed to the extent that the Council's actions/inactions render the process a nullity.

Secretary Bysiewicz' letter in response is attached. I would have hoped for something more – such as that the requirements of the law are mandatory; the Council failed to follow the law; and the revision proposals ought not be put on the November ballot.

I have it from both the Chair of the Charter Revision commission (Attorney Wareing) and from Counsel to the Charter Revision Commission (Attorney Mednick) that the process was so flawed, that the possibility of a successful challenge is so evident, that the entire process was rendered a nullity.

Given what we have, and given the Council's actions to propose amendments to the Charter from the draft Charter Revision Commission report, I write to inquire as to whether it continues to be the position of the Council that this office ought prepare questions for the upcoming ballot for November.

Please advise.

cc: Matthew D. Ritter
Pedro E. Segarra
Kenneth H. Kennedy, Jr.
James M. Boucher
Veronica Airey-Wilson
rJo Winch
Luis E. Cotto
Larry Deutsch



JOHN ROSE, JR.
Corporation Counsel

CITY OF HARTFORD

OFFICE OF THE CORPORATION COUNSEL

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CARL R. NASTO
Deputy Corporation Counsel

July 29, 2009

The Honorable Susan Bysiewicz,
Secretary of the State
State of Connecticut
30 Trinity Street, PO Box 150470
Hartford, CT 06115-0470

Dear Madam Secretary:

I write on behalf of the City to address with you an upcoming ballot issue which arises out of the City of Hartford's recent Charter Revision Commission experience.

Please know that much the same question has been raised by me with Attorney Ted Bromley.

Background:

The Court of Common Council ("Council") for the City duly authorized the convening of a Charter Revision Commission, which commission met, had several public hearings, all as authorized by Chapter 99 of the General Statutes (C.G.S. Sec. 7-191(a)). The Commission generated a draft report, as required by Sec. 7-191(b) to the Town/City Clerk, who timely transmitted same to the Council, again all as required by law.

Thereafter, however, the Council failed to hold "...at least one public hearing on the draft report" and the Council failed to "make recommendations to the Commission for such changes in the draft report as it..." deemed desirable.

The language of C.G.S. Sec. 7-191(b) requiring the "appointing authority" [here, the Council] to hold at least one public hearing on the draft report is mandatory, not discretionary.

What the City is left with is a draft report; no recommendations of the Council, after a failure to follow the statutory dictates. What our Town/City Clerk faces is the responsibility to decide that the "final-by-default" draft plan and the recommendations therein, which are not the recommendations of

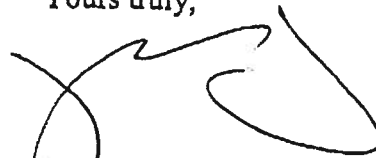
an informed public or even of the Council itself are worthy of being on the ballot for the upcoming election.

I am looking for a determination from you/your office [or from the Attorney General's office if you determine this is an issue that office ought address] as to the following:

Given the scenario outlined above, ought the ballot for the upcoming general election include recommendations from the draft report, OR does the failure to abide the requirements of C.G.S. Sec. 7-191(b) render the process a nullity?

Thank you for your prompt consideration of this matter.

Yours truly,

A handwritten signature in black ink, appearing to be "John Rose, Jr.", written over a circular stamp or mark.

John Rose, Jr.
Corporation Counsel

cc: The Honorable Richard Blumenthal, Attorney General
Ted Bromley, Esq.

JRJ/eg



CORPORATION COUNSEL

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July 31, 2009

Susan Bysiewicz
SECRETARY OF THE STATE
CONNECTICUT

The Honorable John Rose
Corporation Counsel
City of Hartford
550 Main Street
Hartford, CT 06103

RE: Charter Revision Commission

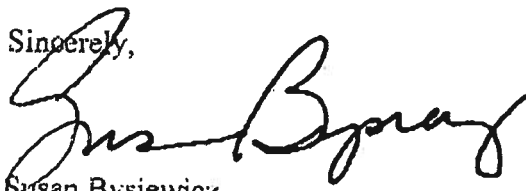
Dear Attorney Rose:

I have reviewed your letter in which you outline a series of acts and apparent omissions on the part of the Hartford Court of Common Council in connection with a draft report issued by its duly-authorized Charter Revision Commission. Specifically, you ask for this office's advice on whether the Council's apparent failure to follow the requirements of Section 7-191(b) should preclude the recommendations from the draft report of the Charter Revision Commission from being included on the ballot in November.

Attached please find another copy of the e-mail sent to you by Attorney Ted Bromley of this office. As Attorney Bromley correctly points out, this office cannot render any formal or binding opinion with respect to this matter, as our jurisdiction is limited to the state's elections laws as contained in Title 9 of the Connecticut General Statutes. The facts outlined by you do raise the possibility of a challenge, given the lack of a public hearing on the draft report. I concur with Attorney Bromley that, although it is not explicitly required by statute, a safe course of action would be to re-start the process. Ultimately, you have the final call as Corporation Counsel with regard to the interpretation of Title 7.

Feel free to call Ted 509-6122 or me if you'd like to discuss this further.

Sincerely,


Susan Bysiewicz
Secretary of the State

Cc: The Honorable Richard Blumenthal
Attorney Ted Bromley