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MEMO

TO: Maine Township Trustees Claire McKenzie, Susan Sweeney
and David Carrabotta

CC: Laura J. Morask, Supervisor
Kimberly Williams, Trustee

FROM: Daniel J. Dowd

DATE: September 21, 2017

RE: Supervisor Authority over General Assistance/Food Pantry

I have been asked by Trustees Claire McKenzie, Susan Sweeney and David Carrobotta at various times and in various forms to provide an opinion on whether Supervisor Morask was entitled by law to hire Kelly Schaeffer to work in and for the food pantry and terminate three other part-time employees who occasionally worked in the food pantry, all without the concurrence of the full Board of Trustees. I have also been asked to give an opinion on whether the food pantry qualifies as the provision of general assistance under applicable law.

It is my opinion that the Supervisor had the authority to make the hire in question without Board concurrence and to terminate the three other part-time employees who worked from time to time in the food pantry.

My opinion is based on the following: §12-21.2 of the Public Aid Code vests in the Supervisor, the power to hire employees in general assistance with these words:

Supervisors of general assistance in counties under township organization – other staffing. In counties under township organization, the supervisors of respective towns therein shall be *ex officio* Supervisors of General Assistance of their towns. The Supervisor of General Assistance shall appoint such other employees as may

be necessary to provide public aid under Article VI and prescribe their compensation and duties. (Emphasis added).

In addition, §1/70-50 and §1/100-5(a) support the statutory grant in the above provision with the following language:

§1/70-50. Supervisor of general assistance. The township supervisor shall be ex officio supervisor of general assistance in the township and shall administer the general assistance program in the township as provided in Articles VI, XI and XII of the Public Aid Code.

§1/100-5(a) The township board may employ and fix the compensation of township employees that the board deems necessary, excluding the employees of the office of supervisor of general assistance, township collector and township assessor. They township board shall fix the compensation of a township attorney appointed by the township supervisor under Section 70-37. The township attorney shall not be considered a township employee for purposes of the first sentence of this subsection. (Emphasis added).

Construing these three statutory provisions together, it is clear to me that (1) the supervisor is the ex officio supervisor of general assistance charged with the administration of the program (§1/70-50); (2) with authority to appoint and set the compensation of employees **deemed** necessary to provide the public aid **required** by the Code (§12-21.2); and (3) the township board is expressly excluded in decisions regarding the employment and compensation of general assistance employees (§1/100-5(a)).

This analysis in my judgment would equally apply to the termination of the three part-time employees in question.

In reaching my opinion that delivery of food stuffs through the food pantry qualifies as “public aid” under the applicable statutes, I have relied upon the Public Aid Code and written opinion of Attorney Gregory E. Pelini, a copy of which I am sending to you with this Memo.

Firstly, Mr. Pelini is an expert in the area of general assistance and has been a resource for it for many years. It is my opinion that the supervisor was entitled to request an opinion from him on the legality of the hire in question as the authority to administer the general assistance program in my judgment of necessity includes the ability to seek a legal opinion that the administration of the program is consistent with law.

Central to this issue is whether food qualifies as “financial aid” under the Public Aid Code. It is my opinion that it does and it is grounded firstly in the following statutory provision:

305 ILCS 5/6-2. Section 6-2. Amount of aid. The amount and nature of General Assistance for basic maintenance requirements shall be determined in accordance with local budget standards for local governmental units which do not receive State funds. (Emphasis added).

If, as some assert, aid under the Act is limited to delivering direct financial monetary aid to the recipient, vouchers to vendors or delivering money to a vendor for the purpose of delivering necessities to the participants, the language, and “nature” would not have been included in the above statutory power. Indeed, if it were so limited, the grant would read simply that the “amount” of assistance would be so determined.

The word “nature” is defined to include the inherent characteristic and essential features of a distinct object of things. It is my opinion that “food”, probably more than any other commodity, qualifies as assistance for the “basic maintenance requirements” of the recipient and the choice of the food pantry to deliver such basic maintenance is consistent with the statutory grant to townships who do not receive State funds.

Also, in my opinion, the statute is one that is ameliorative in nature and should be broadly construed so that it **meets the objectives of the legislature**. In this regard, I agree with the analysis of this issue performed by Attorney Pelini that “financial aid” as contemplated by the statute includes the funding of the food pantry and the delivery of food stuffs through it.

Finally, Susan Sweeney asked if I believe that §1/85-13 Township services, generally (a)(1)(G), which authorizes the township board to expend funds for certain purposes, including “social services for the poor and aged” would include the food pantry. It is my opinion that it certainly could include the food pantry, but does not exclude the food pantry from being administered under the auspice of general assistance.

I apologize for the delay in getting this opinion to you. During the last several weeks, I have been out of town twice for fairly extended periods of time.

Please feel free to call or e-mail me if you have any questions, comments or wish to discuss my opinions.