

Date: January 10, 2018

Coles County State's Attorney Brian Bower  
651 Jackson Ave, Room 326  
Charleston, IL 61920

Attorney General Lisa Madigan  
500 S. 2nd Street  
Springfield, IL 62706

Re: Request for Quo Warranto

Dear States Attorney Bower and Attorney General Madigan,

We are asking you to bring a quo warranto lawsuit in Coles County in accordance with 735 ILCS 5/18-101 to cease the activities of a private contractor who was contracted by the County Board and allowed to usurp, intrude into, and unlawfully execute assessment duties assigned by law to the Supervisor of Assessments.

This person was contracted by the Coles County Board for the explicit purpose to update assessment evaluations of commercial, industrial and multi-unit properties in the County. (See Attached Exhibits – Proof the County Board contracted with private appraiser: Exhibit A- Subcommittee vote to forward bid proposal to County Board for consideration, Exhibit B- County Board vote to approve bid proposal, Exhibit C- Letter to Legislators acknowledging contract status of independent appraiser. Proof of Contractor employment status: Exhibit D- W-9 showing individual/proprietor status, Exhibit E- Proof of 1099 issued by the county for nonemployee compensation, Exhibit F- FOIA response from county that showed invoices submitted to County Board by contractor and payments made by county, Exhibit G- Email from County Board Administrative Assistant Elaine Komada to Supervisor of Assessments Karen Biddle acknowledging contract status of independent appraiser.)

The primary issue involves whether the County Board had the authority to contract with a private person to perform the duties of the Office of Supervisor of Assessments. Applying well established case law from *Ashton V Cook County*, it is clear, what the county did violates the law.

*"The law is well settled that when the constitution or the laws of the State create an office, prescribe the duties of its incumbent and fix his compensation, no other person or board, except by action of the legislature, has the authority to contract with private individuals to expend public funds for the purpose of performing the duties which were imposed upon such officer. (Fergus v. Russel, 270 Ill. 304; Stevens v. Henry County, 218 Ill. 468; Hope v. City of Alton, 214 Ill. 102.) The contracts of employment under which appellants claim were ultra vires and void."*

The laws of the state, specifically 35 ICLS 200, created the office of Supervisor of Assessments, prescribe the duties, and outlined the fixing of their compensation. That being the case, just as the courts have said on such related matters, no other person or board, except by action of the legislature, has the authority to contract with private individuals to expend public funds for the purpose of performing the duties which were imposed upon such officer.

In the case of Coles County, they contracted with a private person, expended public funds, all for the purpose of performing the duties which, in fact, are imposed upon the Office of the Supervisor of Assessments.

According to 35 ILCS 200/9 Division 2, Assessment Authority lies within the constraints of the statute. In each case under Illinois law covering Assessment Authority, Assessment Authority at the County level lies with public officials, not private contracted persons. There is no provision in Illinois law for County Boards or any other county officer to contract the duties of the Office of the Supervisor of Assessments.

The legislature withheld the power to contract for assessments at the County level, which is the same as though the exercise of the power was prohibited by law.

*"They come within the principle of law that where the legislature has withheld a power it is the same as though the exercise of the power was prohibited by law. (Continental Ill. Nat. Bank and Trust Co. v. Peoples Trust and Savings Bank, 366 Ill. 366.)"*

Only at the Township level is there legislative authority for the contracting of a private assessor as can be found in 35 ICLS 200/2-60(b).

For the reasons outlined above and in pursuit of proper application of our laws, please bring a lawsuit to correct this wrong or send us a letter stating you decline, so that, we satisfy 735 ILCS 5/18- 102 and can then bring the lawsuit ourselves. We do ask that if you are going to decline, please let us know without delay as time is of the essence in this matter.

Respectfully,

*Rep Dukeman*  
