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NP-785

TAXATION:
Compatibility of Offices of
Township Assessor and Deputy
Supervisor of Assessments

Honorable Martin Rudman
State's Attorney, Will County
Courthouse
Joliet, Illinois 60431

Dear Mr. Rudman:

I have your letter in which you state:

"I hereby request your opinion on the following question:

The Supervisor of Assessments Office of Will County employs two men as Deputy Assessors. These men serve as field appraisers. Their job is to ascertain the market price for various categories of real property located within Will County. Each of these men is also the duly elected Township Assessor of one of the townships of Will County. It is the policy of the Supervisor of Assessments Office that neither of the men do any field appraisals in the township in which they are the elected Township Assessor.

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I would appreciate your opinion as to whether or not the office of Township Assessor is incompatible with being an employee of the Supervisor of Assessments Office."

The office of Township Assessor is created by section 1 of article 7 of "AN ACT to revise the law in relation to township organization" (Ill. Rev. Stat. 1973, ch. 139, par. 60), which provides in part:

"§ 1. * * *

On the first Tuesday in April in each town, in the year 1957 and every 4 years thereafter, there shall be elected by ballot one township clerk and one township assessor who shall hold office for a term of 4 years, and until their successors are elected and qualified.

* * * "

The office of Supervisor of Assessments is created by sections 2 and 3a of the Revenue Act of 1939 (Ill. Rev. Stat. 1973, ch. 120, pars. 483 and 484a) which provides in part:

"§ 2. In counties under township organization having less than 150,000 inhabitants, and in counties under any township organization in which by the last preceding federal census the population had reached or exceeded 150,000 but less than 1,000,000 and in which no board of assessors has heretofore been elected as provided in Section 4 of this Act,

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or authorized by referendum as provided in Section 10a, there shall be a county supervisor of assessments appointed as provided in Section 3a. * * * "

"§ 3a. In counties containing less than 1,000,000 inhabitants and not having an elected board of assessors, the office of supervisor of assessments or county assessor, shall be filled by appointment by the county board, as herein provided.

* * * "

Section 3b of said Act (Ill. Rev. Stat. 1973, ch. 120, par. 484b) provides for the appointment of Deputy Assessors by stating in regards to the Supervisor of Assessments:

"§ 3b. * * *

Each such officer may, by and with the advice and consent of the county board, appoint necessary deputies and clerks, their compensation to be fixed by the county board and paid by the county.

* * * "

From the general rule announced in People v. Haas, 145 Ill. App. 283, it appears that incompatibility between offices arises where the constitution or a statute specifically prohibits the occupants of either one of the offices from holding the other or where because of the duties of either

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office a conflict in interest may arise, or where the duties of either office are such that the holder of one cannot in every instance properly and faithfully perform all the duties of the other.

It is my opinion that a person who is simultaneously Township Assessor and Deputy Supervisor of Assessments, due to the relationship between said offices, would have a conflict of interest and be unable to properly and faithfully perform all the duties of each office.

A major conflict of interest involves power to make assessments. Section 17 of the Revenue Act of 1939 (Ill. Rev. Stat. 1973, ch. 120, par. 498), after listing property to be assessed by the Department of Local Government Affairs, states:

"§ 17. * * * The township assessor, county assessor, supervisor of assessments, board of assessors, board of review, or board of appeals, as the case may be, shall assess all other property not exempted from taxation."

Section 43 and 44 of said Act (Ill. Rev. Stat. 1973, ch. 120, pars. 524 and 525) provide:

"§ 43. * * *

On or before June 1 in each quadrennial assessment year in all counties having a

population less than 1,000,000 inhabitants, and as soon as he reasonably can in each quadrennial assessment year in counties having a population of 1,000,000 or more inhabitants, or if any such county is divided into assessment districts as provided above, as soon as he reasonably can in each quadrennial assessment year in such assessment districts, the assessor in person or by his deputy shall actually view and determine as near as practicable the value of each tract or lot of land listed for taxation as of January 1, or as provided in Section 27a of this Act, of such year and assess the same at its fair cash value, setting down the sum in the proper column in the books furnished him.

* * * "

"§ 44. On or before the first day of June in each year other than the year of the quadrennial assessment, in all counties having less than 1,000,000 inhabitants, and as soon as he reasonably can in counties containing 1,000,000 or more inhabitants, the assessor shall list and assess all real property which shall become taxable and which is not upon the general assessment, and also make and return a list of all new or added buildings, structures or other improvements of any kind, the value of which shall not have been previously added to or included in the valuation of the tract or lot on which such improvements have been erected or placed, specifying the tract or lot on which each of said improvements has been erected or placed, the kind of improvement and the value which, in his opinion, has been added to such tract or lot by the erection thereof; * * * "

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Section 95 of said Act (Ill. Rev. Stat. 1973, ch. 120, par. 576) provides:

"§ 95. The supervisor of assessments shall have the same authority as the township assessor to assess and to make changes or alterations in the assessment of property, and shall assess and make such changes or alterations in the assessment of property as though originally made. Such changes by the supervisor of assessments in valuations returned by the township assessor shall be noted in a column provided therefor, and no change shall be made in the original figures.

All changes and alterations in the assessment of real property shall be subject to revision by the board of review in the same manner that original assessments are reviewed."

Under the last quoted section, a Deputy Supervisor of Assessments, pursuant to the instructions of the Supervisor of Assessments, could review evaluations returned by Township Assessors and make changes or alterations therein. If such Deputy Supervisor of Assessments simultaneously held the office of Township Assessor, he would be in the untenable position of being charged with reviewing his own assessments. The fact, as indicated by your letter, that it is the policy of the Supervisor of Assessments' office of Will County that the

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Deputy Supervisor of Assessments are not permitted to do any field appraisals in the Townships in which they are the elected Township Assessors does not change my opinion. Said policy, being without force of law, is subject to change at the discretion of the Supervisor of Assessments, and therefore does not negate the basic incompatibility of the two offices.

Another conflict of interests involves supervisory powers. Section 2 of the Revenue Act of 1939, supra, provides in part:

"§ 2. * * * The township assessors shall allow the appointed Supervisor of Assessments to make a duplicate copy of any or all records compiled and maintained by the township assessor. The Supervisor of Assessments shall make and maintain a complete set of all property record cards. The township assessor shall supply the Supervisor of Assessments with a copy of all new property record cards as they are added to the tax rolls. The Supervisor of Assessments shall, by January 1 of each year, assemble all assessors and their deputies for consultation and shall give such instructions to them as shall tend to a uniformity in the action of the assessors and their deputy assessors in his county. Any assessor or deputy assessor who wilfully refuses or neglects to observe or follow the direction of the supervisor of assessments, which is in accordance with law, shall be guilty of a Class B misdemeanor."

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Under this provision, a Deputy Supervisor of Assessments pursuant to the instructions from the Supervisor of Assessments could instruct and direct Township Assessors. If such Deputy Supervisor of Assessments simultaneously held the office of Township Assessor, he would be placed in a position of supervising himself.

In conclusion, I am of the opinion that the offices of Township Assessor and Deputy Supervisor of Assessments are incompatible.

Very truly yours,

A T T O R N E Y G E N E R A L